

N00164-04-R-8907

<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS RATED ORDER UNDER DPAS (15 CFR 350) <b>ñ</b>		RATING <b>DO-A50</b>	PAGE OF PAGES <b>1   75</b>
2. CONTRACT NO.	3. SOLICITATION NO. <b>N00164-04-R-8907</b>	4. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP)	5. DATE ISSUED <b>8/18/04</b>	6. REQUISITION/PURCHASE NO.	
7. ISSUED BY CODE <b>COMMANDER CODE 1165ZF, BLDG. 3168 NAVSURFWARCENDIV 300 HIGHWAY 361 CRANE IN 47522-5001</b>		8. ADDRESS OFFER TO (If other than Item 7) <b>BLDG 3168 NAVSURFWARCENDIV ATTN: FLO MARTIN CODE 1165ZF 300 HWY 361 CRANE, IN 47522-5001</b>			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

**SOLICITATION**9. Sealed offers in original and **1** copies for furnishing the supplies or services in the Schedule will be received at the place specified in Item 8,or if handcarried, in the depository located in **Blg-3168** until **2:00 PM** local time **9/17/04**.

CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.

10. FOR INFORMATION CALL: <b>ñ</b>	A. NAME <b>Flo Martin</b>	B. TELEPHONE NO. (include area code) (NO COLLECT CALLS) <b>(812) 854-3689</b>
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**OFFER (Must be fully completed by offeror)**

NOTE: Item 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.

12. In compliance with the above, the undersigned agrees, if this offer is accepted within \_\_\_\_\_ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.

13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause No. 52-232-8) <b>ñ</b>	10 CALENDAR DAYS <b>%</b>	20 CALENDAR DAYS <b>%</b>	30 CALENDAR DAYS <b>%</b>	CALENDAR DAYS <b>%</b>
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated.	AMENDMENT NO.	DATE	AMENDMENT NO.	DATE

15A. NAME AND ADDRESS OF OFFEROR	CODE	FACILITY	16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or Print)
15B. TELEPHONE NO. (Include area Code)	15C. CHECK IF REMITTANCE ADDRESS <input type="checkbox"/> IS DIFFERENT FROM ABOVE. ENTER SUCH ADDRESS IN SCHEDULE	17. SIGNATURE	18. OFFER DATE

**AWARD (To be completed by Government)**

19. ACCEPTED AS TO ITEMS NUMBERED	20. AMOUNT	21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION:  <input type="checkbox"/> 10 U.S.C. 23204(c) <input type="checkbox"/> 41 U.S.C. 253 (c) ( )		23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified) <b>ñ</b>	ITEM
24. ADMINISTERED BY (If other than Item 7) CODE	25. PAYMENT WILL BE MADE BY CODE		
26. NAME OF CONTRACTING OFFICER (Type or print)		27. UNITED STATES OF AMERICA (Signature of Contracting Officer)	28. AWARD DATE

IMPORTANT – Award will be made on the Form, or Standard Form 26, or by other authorized official written notice.

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**SECTION "B" – SUPPLIES OR SERVICES AND PRICES/COSTS**

<b><u>CLIN</u></b>	<b>DESCRIPTION</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Price</b>	<b>Amount</b>
0001	Performance Based Services for Non-personal Technical and Engineering Services in accordance with (IAW) NAVSURFWARCENDIV Crane Statement of Work (SOW) as provided in Section "C" herein.	1	LO	See Below	See Below

**FIVE-YEAR SUMMARY**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

**YEAR 1**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

**YEAR 2**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

**YEAR 3**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

**YEAR 4**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

**YEAR 5**

Total Estimated Cost.....	\$ _____	\$ _____
Maximum Fixed Fee.....	\$ _____	\$ _____
Total Estimated Cost Plus Fixed Fee.....	\$ _____	\$ _____

0002	Data IAW Contract Data List Items (CDRLS), DD Forms 1423-1, Exhibit "A", listed in Section "J". (NSP--NOT SEPARATELY PRICED)	1	LO	NSP	NSP
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**ESTIMATED LEVEL OF EFFORT**

Labor Category	Year 1	Year 2	Year 3	Year 4	Year 5	5-Year Total	Hrs.
Scientist	248	248	248	248	248		
Sr. Engineer	1824	1824	1824	1824	1824		
Engineer	6538	6538	6538	6538	6538		
Engineer II	1038	1038	1038	1038	1038		
Sr. Engineer Tech	596	596	596	596	596		
Sr. Engineer Tech (OT)	100	100	100	100	100		
Engineer Tech I	24274	24274	24274	24274	24274		
Engineer Tech I (OT)	100	100	100	100	100		
Engineer Tech II	5607	5607	5607	5607	5607		
Engineer Tech II (OT)	1618	1618	1618	1618	1618		
Engineer Tech III	8478	8478	8478	8478	8478		
Engineer III (OT)	100	100	100	100	100		
Engineer Tech IV	6854	6854	6854	6854	6854		
Engineer V	3083	3083	3083	3083	3083		
Electronic Tech I	200	200	200	200	200		
Electronic I (OT)	100	100	100	100	100		
Electronic Tech II	565	565	565	565	565		
Electronic Tech II (OT)	100	100	100	100	100		
Electronic Tech III	10199	10199	10199	10199	10199		
Electronic Tech III (OT)	100	100	100	100	100		
Production Mgr.	54	54	54	54	54		
Draftsman	600	600	600	600	600		
Draftsman II	100	100	100	100	100		
Admin Asst	106	106	106	106	106		
Sr. Program Analyst	1400	1400	1400	1400	1400		
Program Analyst	10226	10226	10226	10226	10226		
Program Analyst II	1745	1745	1745	1745	1745		
Program Analyst III	1827	1827	1827	1827	1827		
Program Mgr.	1834	1834	1834	1834	1834		
Program Mgr. II	3949	3949	3949	3949	3949		
Travel Clerk	113	113	113	113	113		
Travel Clerk II	20	20	20	20	20		
Travel Clerk III	48	48	48	48	48		
Laborer	2716	2716	2716	2716	2716		
Laborer (OT)	100	100	100	100	100		
Welder	300	300	300	300	300		

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Welder (OT)	<u>165</u>	<u>165</u>	<u>165</u>	<u>165</u>	<u>165</u>	
Total Regular Labor Hours	94,742	94,742	94,742	94,742	94,742	
Total OT Hours	<u>2,283</u>	<u>2,283</u>	<u>2,283</u>	<u>2,283</u>	<u>2,283</u>	
Total LOE	97,025	97,025	97,025	97,025	97,025	485,125

**SECTION "B" NOTES:**

**NOTE: (1)** The estimated direct labor hours by labor category, material, travel and Other Direct Costs are included in Section "L".

**ORDERING -- ADDITIONAL INFORMATION – (5306)**

The agency authorized to place delivery orders against this contract is: Crane Division, Naval Surface Warfare Center (NAVSURFWARCENDIV Crane), and Crane, IN 47522-5001.

Delivery orders shall be placed against this contract using a DD 1155 or SF 1449 format. Delivery orders placed under this contract shall be placed no later than 60 days prior to completion of contract.

**LIMITATION OF COST OR LIMITATION OF FUNDS LANGUAGE (5310)**

The clause entitled "LIMITATION OF COST" (FAR 52.232-20) or "LIMITATION OF FUNDS" (FAR 52.232-22), as appropriate, shall apply separately and independently to each separately identified estimated cost.

**PAYMENT FOR ENGINEERING SERVICES AND SUPPORT - ALTERNATE I (NAVSEA) (JUN 1992) – (5312)**

(a) Invoices for engineering services and overtime shall contain the name(s) of engineer(s), date(s) and place(s) of performance, and a brief description of the services performed. Each invoice shall be accompanied by a copy of the authorization for services and the original certification of performance. A copy of each invoice shall be furnished to the applicable NAVSEA/DRPM/PEO code identified elsewhere in the contract.

(b) Invoices for subsistence and transportation shall be supported by a statement of actual costs incurred by the Contractor and claimed to be reimbursable and shall be in such form and reasonable detail as required by the cognizant Defense Contract Audit Agency (DCAA). The Government shall make provisional payment after submission of each invoice and statement of costs. At any time prior to final payment, DCAA may audit the invoice(s) and statement(s) of costs, as appropriate.

(c) Each provisional payment for subsistence and transportation costs shall be subject to reduction to the extent any amount included in the related invoice and statement of costs is found not to be reimbursable under the support item(s) and shall also be subject to reduction for overpayment or to increase for underpayment on preceding invoices. Any disputes under this requirement shall be determined in accordance with the clause of this contract entitled "DISPUTES" (FAR 52.233-1).

(d) Separate invoices shall be submitted for selected replacement repair parts subsequent to the establishment of prices therefor in accordance with SECTION C of this contract.

**PAYMENTS OF FEE(S) (COMPLETION) (NAVSEA) (MAY 1993) - (5313)**

(a) For purposes of this contract, "fee" means "target fee" in cost-plus-incentive-fee type contracts, "base fee" in cost-plus-award-fee type contracts, "fixed fee" in cost-plus-fixed-fee type contracts for completion and phase type contracts.

(b) The Government shall make payments to the Contractor, subject to and in accordance with the clause in this contract entitled "FIXED FEE" (FAR 52.216-8) or "INCENTIVE FEE", (FAR 52.216-10), as applicable. Such payments shall be equal percent ( %) of the allowable cost of each invoice submitted by and payable to the Contractor pursuant to the clause of this contract entitled "ALLOWABLE COST AND PAYMENT" (FAR 52.216-7), subject to the withholding terms and conditions of the "FIXED FEE" or "INCENTIVE FEE" clause, as applicable (percentage of fee is based on fee dollars divided by estimated cost dollars, including facilities capital cost of money). Total fee(s) paid to the Contractor shall not exceed the fee amount(s) set forth in this contract.

(c) In the event of discontinuance of the work under this contract, or any specified phase of the contract, in accordance with the clause of this contract entitled "LIMITATION OF FUNDS" (FAR 52.232-22) or "LIMITATION OF COST" (FAR 52.232-20), as applicable, the fee shall be equitably adjusted by mutual agreement to reflect the diminution of work. If the adjusted fee is less than the sum of all fee payments made to the Contractor under this contract, the Contractor shall repay the excess amount to the Government. If the adjusted fee exceeds all payments made to the Contractor under this contract, the Contractor shall be paid the additional amount, subject to the availability of funds. In no event shall the Government be required to pay the Contractor any amount in excess of the funds obligated under this contract at the time of the discontinuance of work.

(d) Fee(s) withheld pursuant to the terms and conditions of this contract shall not be paid until the contract has been modified to reduce the fee(s) in accordance with paragraph (c) above, or until the Procuring Contracting Officer has advised the paying office in writing that no fee adjustment is required.

NOTE: Percentage of fee is based on fee dollars divided by estimated cost dollars, including facilities capital cost of money.

**PAYMENTS OF FEE(S) (LEVEL OF EFFORT) (NAVSEA) (MAY 1993) - (5314)**

- (a) For purposes of this contract, "fee" means "target fee" in cost-plus-incentive-fee type contracts, "base fee" in cost-plus-award-fee type contracts, or "fixed fee" in cost-plus-fixed-fee type contracts for level of effort type contracts.
- (b) The Government shall make payments to the Contractor, subject to and in accordance with the clause in this contract entitled "FIXED FEE" (FAR 52.216-8) or "INCENTIVE FEE", (FAR 52.216-10), as applicable. Such payments shall be equal to percent (    %) of the allowable cost of each invoice submitted by and payable to the Contractor pursuant to the clause of this contract entitled "ALLOWABLE COST AND PAYMENT" (FAR 52.216-7), subject to the withholding terms and conditions of the "FIXED FEE" or "INCENTIVE FEE" clause, as applicable (percentage of fee is based on fee dollars divided by estimated cost dollars, including facilities capital cost of money). Total fee(s) paid to the Contractor shall not exceed the fee amount(s) set forth in this contract.
- (c) The fee(s) specified in SECTION B, and payment thereof, is subject to adjustment pursuant to paragraph (g) of the special contract requirement entitled "LEVEL OF EFFORT." If the fee(s) is reduced and the reduced fee(s) is less than the sum of all fee payments made to the Contractor under this contract, the Contractor shall repay the excess amount to the Government. If the final adjusted fee exceeds all fee payments made to the contractor under this contract, the Contractor shall be paid the additional amount, subject to the availability of funds. In no event shall the Government be required to pay the Contractor any amount in excess of the funds obligated under this contract at the time of the discontinuance of work.
- (d) Fee(s) withheld pursuant to the terms and conditions of this contract shall not be paid until the contract has been modified to reduce the fee(s) in accordance with the "LEVEL OF EFFORT" special contract requirement, or until the Procuring Contracting Officer has advised the paying office in writing that no fee adjustment is required.

**TRAVEL COSTS - ALTERNATE I (NAVSEA) (MAY 2000) (5315)**

- (a)(1) Except as otherwise provided herein, the Contractor shall be reimbursed for its reasonable actual travel costs in accordance with FAR 31.205-46. The costs to be reimbursed shall be those costs accepted by the cognizant DCAA.
- (a)(2) In accordance with Class Deviation 2000-00005, DOD Contractors may choose to use either the FTR rates and definitions for travel, lodging and incidental expenses effective on 31 December 1998 or the current FTR rates and definitions. The Contractor must choose either the 1998 definitions and rates or the current FTR definitions and rates and apply them consistently to all travel while this class deviation, or its successor, is in effect.
- (b) Reimbursable travel costs include only that travel performed from the Contractor's facility to the worksite, in and around the worksite, and from the worksite to the Contractor's facility.
- (c) Relocation costs and travel costs incident to relocation are allowable to the extent provided in FAR 31.205-35; however, Contracting Officer approval shall be required prior to incurring relocation expenses and travel costs incident to relocation.
- (d) The Contractor shall not be reimbursed for the following daily local travel costs:
  - (i) travel at U.S. Military Installations where Government transportation is available;
  - (ii) travel performed for personal convenience/errands, including commuting to and from work; and
  - (iii) travel costs incurred in the replacement of personnel when such replacement is accomplished for the Contractor's or employee's convenience.

**Data Rights (5317)**

The Government shall have unlimited data rights to all data generated in accordance with DFARS 252.227-7013.

## SECTION "C" – DESCRIPTION/SPECIFICATIONS/WORK STATEMENT ENGINEERING SUPPORT SERVICES FOR

Antenna Test Equipment Design, Fabrication, Validation, Repair  
And Fabrication of Antenna Systems and Components

### 1.0 SCOPE

This Performance Based Statement of Work (PBSOW) defines the efforts required by the Contractor to support the procurement of various test systems, components for antenna testing, related engineering, program management services, repair, and fabrication of antenna systems and components, and programs identified in Section 3 of this PBSOW. The parameters of the work to be performed for each program are specifically described in the subparagraphs below. As required by task orders, the contractor shall furnish all labor, facilities, material, and equipment except for that material, facilities, and equipment to be provided by the Government as Government Furnished Information (GFI), Government Furnished Material (GFM), Government Furnished Facilities (GFF), and Government Furnished Equipment (GFE).

### 2.0 APPLICABLE DOCUMENTS

The following documents of the revision or issue in effect at the date of the order or as otherwise specified by the order, form a part of this SOW to the extent described herein. The exact revision of documents is not cited in the text of the SOW for convenience of reference. In the even of conflict between the documents referenced herein and the contents of this SOW, the contents of this SOW shall prevail.

#### 2.1 SPECIFICATIONS

DOD-D-1000B Drawings, Engineering, and Associated Lists

#### 2.2 STANDARDS

#### 2.3 OTHER PUBLICATIONS

MIL-HDBK-217F  
Notice 1

MIL-HDBK-235-1B Notice 1	Electromagnetic (Radiated) Environmental Considerations for Design and Procurement of Parts 1 & 2) Electronical and Electronic Equipment, Subsystems and Systems
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MIL-HDBK-237A Notice 1, 2	Electromagnetic Compatibility Management Guide Interim for Platforms, Systems and Equipment
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MIL-HDBK-245D	Preparation of Statement of Work (SOW)
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MIL-HDBK-259	Life Cycle Cost in NAVY Acquisitions
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MIL-HDBK-472	Maintainability Prediction (Notice 1)
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MIL-HDBK-1221	Evaluation of Commercial Off-the-Shelf (COTS) Manual
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MIL-HDBK-2164 Environmental Stress Screening for Electronic Equipment

ANSI A117.1-86 Building and Facilities, Providing Accessibility and Usability for Physically Handicapped People

ANSI Y14.5M-82 Dimensioning and Tolerancing

ANSI Z39.18-87 Information Sciences-Scientific and Technical Reports-Organization, Preparation, and Production

IEEE C63.14 American Standard Dictionary for Technologies of Electromagnetic Compatibility (EMC), (EMP, and ESP)

## 2.4 INSTRUCTIONS AND REGULATIONS

29 CFR 1910.1200 OSHA Hazard Communication Standard

## 3.0 REQUIREMENTS

The Contractor shall provide systems engineering support of test systems and components for antenna testing and related engineering and program management services and the repair and fabrication of antenna systems and components, and the following programs:

- a. AN/ALQ-119
- b. AN/ALQ-122
- c. AN/ALQ-128
- d. AN/ALQ-131
- e. AN/ALQ-135
- f. AN/ALQ-161
- g. AN/ALQ-172
- h. AN/ALQ-184
- i. ALQ-155
- j. AN/SLQ-32
- k. AN/ALR-56
- l. AN/APG-63
- m. AN/APG-70
- n. AN/SPS-40
- o. AN/SPS-48E
- p. AN/SPS-49
- q. AN/SPS-55
- r. AN/SPS-64
- s. AN/SPS-67
- t. AN/SPS-73
- u. LN-66
- v. AN/TPS-59
- w. AN/TPS-63
- x. MRRS
- y. MK-68
- z. MK-74
- aa. MK-86
- bb. MK-92
- cc. AN/SPG-60
- dd. AN/SPQ-9
- ee. AN/APS-130
- ff. PARCS
- gg. CHET

All work to be performed and all deliverables shall be specifically referred to and described in all delivery orders resulting from the contract by authorized contracting officers. As required by specified orders, the Contractor shall provide all labor, material, equipment and facilities

excluding material, equipment and facilities provided for or referred to as GFM, GFE, GFF, or GFI.

All tasks shall be completed in accordance with one or more of the documents listed in Section 2 of this SOW as required.

### 3.1 TEST EQUIPMENT FABRICATION

The Contractor shall develop, fabricate, and modify test equipment and computer programs for the testing of antenna systems. Test equipment and computer programs include any fixtures, alignment devices, calibration equipment, or computer programs necessary to calibrate the subject test equipment and computer programs.

### 3.2 ENGINEERING OF TEST EQUIPMENT

The Contractor shall design, detail, specify, reverse engineer, define maintenance and logistics requirements for, and analyze test equipment and computer programs used to test antenna systems.

### 3.3 VALIDATION OF TEST EQUIPMENT

The Contractor shall devise or review acceptance and evaluation test plans, and test and validate test equipment and computer programs for the testing of antenna systems. Validation efforts may include repair, modification, development, or fabrication of antennas, fixtures, equipment, or computer programs, which are to be used to validate or test antenna test equipment and related computer programs.

### 3.4 PROGRAM MANAGEMENT SUPPORT

The Contractor shall provide project/program management support services for the fabrication, engineering, and validation of antenna test equipment and related computer programs. This support consists of planning, preparing, organizing, and reporting. The contractor shall analyze and validate results relating to the programs targeted objectives and current resources.

### 3.5 REPAIR AND FABRICATION OF ANTENNA SYSTEMS AND COMPONENTS

The Contractor shall repair and fabricate antenna systems and components. Repair and fabrication efforts may include repair, fabrication, identification of suitable suppliers, computer programming, design and fabrication of production fixtures, production equipment, and production test equipment. Materials to be procured by the contractor shall consist of electronic and RF cables, connectors, connector assemblies, bead blast material, primer, paint, cable banding, labeling material, and general shop supplies.

### 4.0 DATA DELIVERABLES

The Contractor shall provide the following data deliverables in accordance with the following DIDS:

<u>Description</u>	<u>Seq. No. DID No.</u>
Contractor's Progress, Status & Management Report 0001	DI-MGMT-80227
Technical Report – Study/Services	0002 DI-ADMN-80508
Product Drawings and Associated Lists	0003 DI-DRPR-81000A
Status of Government Furnished Equipment Report	0004 DI-MGMT-80269

### 5.0 TRAVEL

The annual travel requirements are estimated as follows:

<u>DESTINATION</u>	<u>NO. OF TRIPS</u>	<u>NO. OF PERSONS</u>	<u>DAYS PER TRIP</u>
San Diego, CA	5	2	12
Washington, DC	10	1	5

Barstow, CA	3	1	12
Atlanta, GA	2	1	8
Los Angeles, CA	2	1	12
Quantico, VA	6	1	12
Boston, MA	2	1	8
Syracuse, NY	2	1	12
Norfolk, VA	10	2	12
Melville, NY	3	1	5
Mayport, FL	3	1	5
Pascagoula, MS	3	1	5
Honolulu, HI	2	1	12
Yokosuka, JA	1	1	15
Newport, RI	2	1	5
Everett, WA	2	1	5
Johnstown, PA	1	1	5
Wallops, VA	10	1	7

## 6.0 SECURITY

Work performed under this contract will not exceed a classification of Top Secret.

### **ITEM(S) 0001 - SUPPORT FOR ENGINEERING SERVICES (NAVSEA) (JUN 1992)**

- (a) The Contractor shall be reimbursed for its reasonable actual subsistence and transportation costs incurred in the performance of the related engineering services item(s) in accordance with FAR 31.205-46. The costs to be reimbursed shall be those costs accepted by the cognizant DCAA.
- (b) Overtime shall be performed as required by the using activity and to the extent authorized by Procuring Contracting Officer.
- (c) The maximum liability of the Government for each support item shall not exceed the estimated amount set forth in the Schedule. If, at any time, the Contractor has reason to believe that the costs it expects to incur in the performance of each support item in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the amount then set forth in the Schedule; or if, at any time, the Contractor has reason to believe that the costs to the Government for the full performance of each support item will be greater or substantially less than the amount set forth in the Schedule, the Contractor shall notify the Contracting Officer in writing, giving its revised estimate of such costs for the performance of said item. The Contracting Officer may, upon receipt of such notice or whenever the Contracting Officer considers it necessary, increase or further increase the total estimated amount for the performance of each support item. When and to the extent the estimated amount for a support item has been so increased, any amounts expended or incurred by the Contractor for performance in excess of the estimated amount therefor prior to the increase, shall be paid or reimbursed to the same extent as if expended or incurred after the increase.

### **ITEM 0002 -- DATA REQUIREMENTS (NAVSEA) (SEP 1992) (5402)**

The data to be furnished hereunder shall be prepared in accordance with the Contract Data Requirements List, DD Form 1423, Exhibit(s), attached hereto.

### **ITEM 0001 - SUPPORT FOR ENGINEERING SERVICES - ALTERNATE I (NAVSEA) (JUN 1992) – (5406)**

(a) The Contractor shall be reimbursed for its reasonable actual subsistence and transportation costs incurred in the performance of the related engineering services item(s) in accordance with FAR 31.205-46. The costs to be reimbursed shall be those costs accepted by the cognizant DCAA.

(b) Overtime shall be performed as required by the using activity and to the extent authorized by the applicable NAVSEA/DRPM/PEO code identified in Section C under Engineering Services.

(c) The Contractor shall furnish selected replacement repair parts, other than repair parts carried in and readily available from the Navy supply system, which in its judgement may be required during servicing of the equipment to replace worn, defective or malfunctioning parts. This item shall also cover minor redesign, and improvements in components of items, as approved by the applicable

NAVSEA/DRPM/PEO code identified in Section C under Engineering Services. As soon as practicable after completion of services for a specific vessel for which selected replacement repair parts were furnished, the Contractor shall submit an itemized priced list of the parts to the Contracting Officer. Prices shall be subject to agreement between the Contracting Officer and the Contractor. Such agreement shall be evidenced by a bilateral contract modification. Any dispute, or failure of the parties to reach agreement on the prices for any or all of the parts, shall be determined in accordance with and subject to the clause of this contract entitled "DISPUTES" (FAR 52.233-1).

(d) The maximum liability of the Government for each support item shall not exceed the estimated amount set forth in the Schedule. If, at any time, the Contractor has reason to believe that the costs it expects to incur in the performance of each support item in the next succeeding sixty (60) days, when added to all costs previously incurred, will exceed seventy-five percent (75%) of the amount then set forth in the Schedule; or if, at any time, the Contractor has reason to believe that the costs to the Government for the full performance of each support item will be greater or substantially less than the amount set forth in the Schedule, the Contractor shall notify the Contracting Officer in writing, giving its revised estimate of such costs for the performance of said item. The Contracting Officer may, upon receipt of such notice or whenever the Contracting Officer considers it necessary, increase or further increase the total estimated amount for the performance of each support item. When and to the extent the estimated amount for a support item has been so increased, any amounts expended or incurred by the Contractor for performance in excess of the estimated amount therefor prior to the increase, shall be paid or reimbursed to the same extent as if expended or incurred after the increase.

#### **CONTRACTOR'S PROPOSAL (NAVSEA) (SEP 1990) (5408)**

(a) Performance of this contract by the Contractor shall be conducted and performed in accordance with detailed obligations to which the Contractor committed itself in Proposal \_\_\_\_\*\_\_\_\_ dated \_\_\_\_\*\_\_\_\_ in response to NSWC Crane Solicitation No. **N00164-04-R-8907**.

(b) The technical volume(s) of the Contractor's proposal is incorporated by reference and hereby made subject to the provisions of the "ORDER OF PRECEDENCE" (FAR 52.215-33) clause of this contract. Under the "ORDER OF PRECEDENCE" clause, the technical volume of the Contractor's proposal referenced herein is hereby designated as item (f) of the clause, following "the specifications" in the order of precedence.

(\*To be completed at time of award)

#### **ORGANIZATIONAL CONFLICT OF INTEREST (NAVSEA) (JUL 2000) (5415)**

(a) "Organizational Conflict of Interest" means that because of other activities or relationships with other persons, a person is unable or potentially unable to render impartial assistance or advice to the Government, or the person's objectivity in performing the contract work is or might be otherwise impaired, or a person has an unfair competitive advantage. "Person" as used herein includes Corporations, Partnerships, Joint Ventures, and other business enterprises.

(b) The Contractor warrants that to the best of its knowledge and belief, and except as otherwise set forth in the contract, the Contractor does not have any organizational conflict of interest(s) as defined in paragraph (a).

(c) It is recognized that the effort to be performed by the Contractor under this contract may create a potential organizational conflict of interest on the instant contract or on a future acquisition. In order to avoid this potential conflict of interest, and at the same time to avoid prejudicing the best interest of the Government, the right of the Contractor to participate in future procurement of equipment and/or services that are the subject of any work under this contract shall be limited as described below in accordance with the requirements of FAR 9.5.

(d) (1) The Contractor agrees that it shall not release, disclose, or use in any way that would permit or result in disclosure to any party outside the Government any information provided to the Contractor by the Government during or as a result of performance of this contract. Such information includes, but is not limited to, information submitted to the Government on a confidential basis by other persons. Further, the prohibition against release of Government provided information extends to cover such information whether or not in its original form, e.g., where the information has been included in Contractor generated work or where it is discernible from materials incorporating or based upon such information. This prohibition shall not expire after a given period of time.

(2) The Contractor agrees that it shall not release, disclose, or use in any way that would permit or result in disclosure to any party outside the Government any information generated or derived during or as a result of performance of this contract. This prohibition shall expire after a period of three years after completion of performance of this contract.

(3) The prohibitions contained in subparagraphs (d)(1) and (d)(2) shall apply with equal force to any affiliate of the Contractor, any subcontractor, consultant, or employee of the Contractor, any joint venture involving the Contractor, any entity into or with which it may merge or affiliate, or any successor or assign of the Contractor. The terms of paragraph (f) of this Special Contract Requirement relating to notification shall apply to any release of information in contravention of this paragraph (d).

(e) The Contractor further agrees that, during the performance of this contract and for a period of three years after completion of

performance of this contract, the Contractor, any affiliate of the Contractor, any subcontractor, consultant, or employee of the Contractor, any joint venture involving the Contractor, any entity into or with which it may subsequently merge or affiliate, or any other successor or assign of the Contractor, shall not furnish to the United States Government, either as a prime contractor or as a subcontractor, or as a consultant to a prime contractor or subcontractor, any system, component or services which is the subject of the work to be performed under this contract. This exclusion does not apply to any recompetition for those systems, components or services furnished pursuant to this contract. As provided in FAR 9.505-2, if the Government procures the system, component, or services on the basis of work statements growing out of the effort performed under this contract, from a source other than the contractor, subcontractor, affiliate, or assign of either, during the course of performance of this contract or before the three year period following completion of this contract has lapsed, the Contractor may, with the authorization of the cognizant Contracting Officer, participate in a subsequent procurement for the same system, component, or service. In other words, the Contractor may be authorized to compete for procurement(s) for systems, components or services subsequent to an intervening procurement.

(f) The Contractor agrees that, if after award, it discovers an actual or potential organizational conflict of interest, it shall make immediate and full disclosure in writing to the Contracting Officer. The notification shall include a description of the actual or potential organizational conflict of interest, a description of the action which the Contractor has taken or proposes to take to avoid, mitigate, or neutralize the conflict, and any other relevant information that would assist the Contracting Officer in making a determination on this matter. Notwithstanding this notification, the Government may terminate the contract for the convenience of the Government if determined to be in the best interest of the Government.

(g) Notwithstanding paragraph (f) above, if the Contractor was aware, or should have been aware, of an organizational conflict of interest prior to the award of this contract or becomes, or should become, aware of an organizational conflict of interest after award of this contract and does not make an immediate and full disclosure in writing to the Contracting Officer, the Government may terminate this contract for default.

(h) If the Contractor takes any action prohibited by this requirement or fails to take action required by this requirement, the Government may terminate this contract for default.

(i) The Contracting Officer's decision as to the existence or nonexistence of an actual or potential organizational conflict of interest shall be final.

(j) Nothing in this requirement is intended to prohibit or preclude the Contractor from marketing or selling to the United States Government its product lines in existence on the effective date of this contract; nor, shall this requirement preclude the Contractor from participating in any research and development or delivering any design development model or prototype of any such equipment. Additionally, sale of catalog or standard commercial items are exempt from this requirement.

(k) The Contractor shall promptly notify the Contracting Officer, in writing, if it has been tasked to evaluate or advise the Government concerning its own products or activities or those of a competitor in order to ensure proper safeguards exist to guarantee objectivity and to protect the Government's interest.

(l) The Contractor shall include this requirement in subcontracts of any tier which involve access to information or situations/conditions covered by the preceding paragraphs, substituting "subcontractor" for "contractor" where appropriate.

(m) The rights and remedies described herein shall not be exclusive and are in addition to other rights and remedies provided by law or elsewhere included in this contract.

(n) Compliance with this requirement is a material requirement of this contract.

#### **UPDATING SPECIFICATIONS AND STANDARDS (NAVSEA) (AUG 1994) (5418)**

If, during the performance of this or any other contract, the contractor believes that any contract contains outdated or different versions of any specifications or standards, the contractor may request that all of its contracts be updated to include the current version of the applicable specification or standard. Updating shall not affect the form, fit or function of the deliverable item or increase the cost/price of the item to the Government. The contractor should submit update requests to the Procuring Contracting Officer with copies to the Administrative Contracting Officer and cognizant program office representative for approval. The contractor shall perform the contract in accordance with the existing specifications and standards until notified of approval/disapproval by the Procuring Contracting Officer. Any approved alternate specifications or standards will be incorporated into the contract.

#### **DATE/TIME PROCESSING REQUIREMENT--INFORMATION TECHNOLOGY (NAVSEA) (JUN 2000) (5425)**

(a) All information technology (IT), whether commercial or noncommercial, delivered under this contract that will be required to perform date/time processing involving dates subsequent to December 31, 1999, shall be Year 2000 compliant if properly installed, operated, and maintained in accordance with the contract specifications and applicable documentation. If the contract requires that specific deliverables operate together as a system, this requirement shall apply to those deliverables as a system.

(b) "Information Technology" or "IT," as used in this requirement, means "information technology" as that term is defined at FAR 2.101, and further including those items that would otherwise be excluded by paragraph (c) of that definition. "Year 2000 compliant" (as defined at FAR 39.002) means that the IT accurately processes date/time data (including), but not limited to, calculating, comparing, and sequencing) from, into, and between the twentieth and twenty-first centuries, and the years 1999 and 2000 and leap year calculations, to the extent that other IT, used in combination with the IT being delivered, properly exchanges date/time data with it. The "proper exchange" of date/time data shall be in accordance with the interface requirements specification(s) of the contract.

(c) For line item deliverables which are commercial items (as defined at FAR 2.101), and which include commercial IT, the terms and conditions of the standard commercial warranty covering such commercial IT shall apply in addition to, and to the extent such terms and conditions are consistent with, this requirement. Any applicable commercial warranty shall be incorporated into this contract by attachment.

(d) Notwithstanding any provision to the contrary in any other warranty of this contract, or in the absence of any such warranty(ies), the remedies available to the Government under this requirement shall include those provided in the Inspection clause(s) of this contract. Nothing in this requirement shall be construed to limit any rights or remedies the Government may otherwise have under this contract.

(e) Unless specified elsewhere in the contract, the Contractor will also deliver to the Government a report summarizing any Year 2000 compliance testing that was performed, and the results thereof.

(f) The remedies available to the Government for noncompliance with this requirement shall remain available until 31 January 2001, or one hundred eighty (180) days after acceptance of the last deliverable IT item under this contract (including any option exercised hereunder), whichever is later.

All unclassified data shall be prepared for shipment in accordance with best commercial practice. Classified reports, data, and documentation shall be prepared for shipment in accordance with National Industrial Security Program Operating Manual (NISPOM), DOD 5220.22-M dated January 1995.

All reports delivered by the Contractor to the Government under this contract shall prominently show on the cover of the report:

- (1) name and business address of the Contractor
- (2) contract number
- (3) contract dollar amount
- (4) whether the contract was competitively or non-competitively awarded
- (5) sponsor: \_\_\_\_\_(Name of Individual Sponsor)  
\_\_\_\_\_(Name of Requiring Activity)  
\_\_\_\_\_(City and State)

The use of asbestos, excelsior, newspaper or shredded paper (all types including waxed paper, computer paper and similar hygroscopic or non-neutral material) is prohibited. In addition, loose fill polystyrene is prohibited for shipboard use.

The Contractor shall comply with the instructions cited below for placement of the distribution statement associated with data. The applicable distribution statement is identified on each Contract Data Requirements List (DD Form 1423-1).

The distribution statement shall be displayed conspicuously on technical documents so as to be recognized readily by receipts. The distribution statement shall appear on each front cover and title page of a report. If the technical document does not have a cover or title page, the applicable distribution statement shall be stamped or typed on the front page in a conspicuous position.

**SECTION "E" - INSPECTION AND ACCEPTANCE****I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) CLAUSES****II. DEFENSE FAR SUPPLEMENT (DFARS) (48 CFR CHAPTER 2) CLAUSES****PART I**

<u>FAR Subsection</u>	<u>Title</u>	<u>Date</u>
52.246-05	Inspection of Services--Cost Reimbursement	Apr 1984
52.246-16	Responsibility for Supplies	Apr 1984

**CLAUSES IN FULL TEXT****INSPECTION AND ACCEPTANCE LANGUAGE FOR DATA (5602)**

Inspection and acceptance of all data shall be as specified on the attached Contract Data Requirements List(s), DD Form 1423.

**INSPECTION AND ACCEPTANCE LANGUAGE FOR ENGINEERING SERVICES (5603)**

Item(s) 0001 – 0003 -- Acceptance shall be made by the cognizant ACO upon receipt of a copy of the authorization for services and the original certification of performance.

**GOVERNMENT FURNISHED MATERIAL (NAVSEA) (MAY 1995) (5611)**

Government Furnished Material: When material is furnished by the Government, the contractor's procedures shall include at least the following:

- (a) Examination upon receipt, consistent with practicality, to detect damage in transit;
- (b) Inspection for completeness and proper type;
- (c) Periodic inspection and precautions to assure adequate storage conditions and to guard against damage from handling and deterioration during storage;
- (d) Functional testing, either prior to or after installation, or both, as required by contract to determine satisfactory operation;
- (e) Identification and protection from improper use or disposition; and
- (f) Verification of quantity.

Damaged Government Furnished Material: The contractor shall report to the Government representative any Government-furnished property found damaged, malfunctioning, or otherwise unsuitable for use. In event of damage or malfunction during or after installation, the contractor shall determine and record probable cause and necessity for withholding material from use.

Bailed Property: The contractor shall, as required by the terms of the Bailment Agreement, establish procedures for the adequate storage, maintenance, and inspection of bailed Government property. Records of all inspections and maintenance performed on bailed property shall be maintained. These procedures and records shall be subject to review by the Government representative.

[As used in the foregoing, the term "material" applies to Government-furnished equipment to be installed in or furnished with the end item. The term "property" is Government equipment that is used in the fabrication or assembly of the end item, and is not delivered as part of the end item.]

**NOTE: Government representative means Contracting Officer**



**SECTION "F" - DELIVERIES OR PERFORMANCE****PART I**

<u>FAR Subsection</u>	<u>Title</u>	<u>Date</u>
52.242-15	Stop Work Order (Aug 1989)--Alternate I	Aug 1989
52.247-34	F.o.b. Destination	Nov 1991
52.247-55	F.o.b Point for Delivery of Government-Furnished Property	Jun 2003

**CLAUSES IN FULL TEXT****DATA DELIVERY LANGUAGE FOR SERVICES PROCUREMENTS (5703)**

All data to be furnished under this contract shall be delivered prepaid to destination(s) at the time(s) specified on the Contract Data Requirements List(s), DD Form 1423.

**PERFORMANCE LANGUAGE FOR LOE SERVICES (5706)**

The Contractor shall perform the work described in SECTION C, at the level of effort specified in SECTION B, as follows:

<u>ITEM(S)</u>	<u>FROM</u>	<u>TO</u>
0001	Date of Contract/Delivery Order Award	Period of Performance specified in individual Delivery Orders
0002	IAW DD 1423's	

**TIME OF PERFORMANCE (SERVICES) (5711)**

Services to be furnished under ITEM 0001 hereunder shall be performed and completed within 5 years from the effective date of the contract as specified in delivery orders.

**SECTION "G" - CONTRACT ADMINISTRATION DATA****PART I**

<u>DFARS</u> <u>Subsection</u>	<u>Title</u>	<u>Date</u>
252.201-7000	Contracting Officer's Representative	Dec 1991

**SPECIAL PAYMENT INSTRUCTIONS**

Payment instructions will be detailed in each individual delivery order.

Payment is not to be pro-rated

Disburse ACRN's in the order shown:

**SPECIAL INVOICE/BILLING INSTRUCTIONS**

Invoicing Instructions will be detailed in each individual delivery order.

The contract ACRN associated with each CLIN/SubCLIN shall be referenced on page 1 of the invoice by CLIN/SubCLIN.

In addition to Payment Office copy, the contractor shall submit 1 copy of the invoice to:

The contractor shall submit the invoice to:

VENDOR PAY

CODE 00M, BLDG 3173

NAVSURFWARCENDIV

300 HIGHWAY 361

CRANE IN 47522-5002

Or e-mail the invoice to the following address:

[cnin\\_Vendor Pay@crane.navy.mil](mailto:cnin_Vendor Pay@crane.navy.mil)

The subject line of the e-mail must read as follows:

Company Name/Contract Number/Order Number

**SUBMISSION OF INVOICES (COST-REIMBURSEMENT, TIME-AND-MATERIALS, LABOR-HOUR, OR FIXED PRICE INCENTIVE)**

(a) "Invoice" as used in this clause includes contractor requests for interim payments using public vouchers (SF 1034) but does not include contractor requests for progress payments under fixed price incentive contracts.

(b) The Contractor shall submit invoices and any necessary supporting documentation, in an original and four copies, to the cognizant DCAA office at the following address:

unless delivery orders are applicable, in which case invoices will be segregated by individual order and submitted to the address specified in the order. In addition, an information copy shall be submitted to NSWC Vendor Pay and COR. Following verification the cognizant DCAA office will forward the invoice to the designated payment office for payment in the amount determined to be owing, in accordance with the applicable payment (and fee) clause(s) of this contract.

(c) Invoices requesting interim payments shall be submitted no more than once every two weeks, unless another time period is specified in the Payments clause of this contract. For indefinite delivery type contracts, interim payment invoices shall be submitted no more than once every two weeks for each delivery order. There shall be a lapse of no more than 30 calendar days between performance and submission of an interim payment invoice.

(d) In addition to the information identified in the Prompt Payment clause herein, each invoice shall contain the following information, as applicable:

- (1) Contract line item number (CLIN)
- (2) Subline item number (SLIN)
- (3) Accounting Classification Reference Number (ACRN)
- (4) Payment terms
- (5) Procuring activity
- (6) Date supplies provided or services performed
- (7) Costs incurred and allowable under the contract

(8) Vessel (e.g., ship, submarine or other craft) or system for which supply/service is provided

(e) A DD Form 250, "Material Inspection and Receiving Report",

☐ is required with each invoice submittal.

☐ is required only with the final invoice.

☒ is not required.

(f) A Certificate of Performance

☒ shall be provided with each invoice submittal.

☐ is not required.

(g) The Contractor's final invoice shall be identified as such, and shall list all other invoices (if any) previously tendered under this contract.

(h) Costs of performance shall be segregated, accumulated and invoiced to the appropriate ACRN categories to the extent possible. When such segregation of costs by ACRN is not possible for invoices submitted with CLINS/SLINS with more than one ACRN, an allocation ratio shall be established in the same ratio as the obligations cited in the accounting data so that costs are allocated on a proportional basis.

\* In contracts with the Canadian Commercial Corporation, substitute "Administrative Contracting Officer" for "contract auditor"

\*\* Check appropriate requirements.

A copy of every invoice shall also be provided to the Contracting Officer Representative listed below.

Commander, Attn: Code 8091 (Yvette Anderson), Bldg 3168, Naval Surface Warfare Center, Crane Division, 300 Highway 361, Crane IN 47522-5001 Telephone No. 812-854-5176.

#### Alternate II

(b)(i) In accordance with DFARS 242.803(b)(i)(C), the cognizant DCAA auditor has authorized the contractor to submit interim vouchers directly to the paying offices. This authorization does not extend to the first and final invoices, which shall be submitted to the contract auditor at the following address:

**NOTE: The contractor shall submit back-up cost information with each invoice. This information may include copies of travel claims, material purchasing invoices/transfers, subcontractor invoices, and any other documents supporting the costs billed for material and Other Direct Costs.**

#### PROMPT PAYMENT CONSTRUCTIVE ACCEPTANCE (5814)

Paragraph FAR 52.232-25(a)(5)(i) of the Prompt Payment clause is hereby changed to:

For the sole purpose of computing an interest penalty that might be due the contractor, government acceptance shall be deemed to have occurred constructively on the **30th** day after the contractor delivered the supplies or performed the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or contractor compliance with a contract provision. Payment will be due the vendor in accordance with FAR 52.232-25(a)(1)

*Due date.*

(i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office shall be the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice; provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

#### CLAUSES IN FULL TEXT

#### CONTRACT ADMINISTRATION DATA LANGUAGE (5802)

Enter below the address (street and number, city, county, state and zip code) of the Contractor's facility which will administer the contract if such address is different from the address shown on the SF26 or SF33 as applicable.

**CONTRACTING OFFICER'S REPRESENTATIVE LANGUAGE (5803)**

CONTRACTING OFFICER'S REPRESENTATIVE:

COMMANDER; ATTN: CODE 8091 Yvette Anderson BLDG 3168; NAVAL SURFACE WARFARE  
CENTER CRANE DIVISION; CRANE IN 47522-5001; Telephone No. 812-854-5176

The Contractor shall forward a copy of all invoices to the Contracting Officer's Representative.

**PURCHASING OFFICE REPRESENTATIVE LANGUAGE (5804)**

PURCHASING OFFICE REPRESENTATIVE:COMMANDER; ATTN: CODE Flo Martin 1165ZF BLDG 3168 NAVAL SURFACE  
WARFARE CENTER; CRANE DIVISION  
CRANE IN 47522-5011; Flo Martin Telephone No. 812-854-3689

**SECURITY ADMINISTRATION (5806)**

The highest level of security required under this contract is TOP SECRET as designated on DD Form 254 attached hereto and made a part hereof.

The Commander, Defense Investigative Service, Director of Industrial Security,       \*       Region, is designated Security Administrator for the purpose of administering all elements of military security hereunder.

\* To be filled in at time of award.

**SCIENTIFIC AND TECHNICAL REPORTS (5807)**

The contractor shall furnish scientific and technical reports to Defense Technical Information Center (DTIC), ATTN: DTIC-FDAC Cameron Station, Alexandria, VA 22304-6145. NOTE: When agencies require that completed reports be covered by a Report Documentation Page, Standard Form 298, the contractor shall submit a copy with the report.

**CONTRACT ADMINISTRATION PLAN FOR A COMPLEX COST REIMBURSEMENT CONTRACT (5809)**

Introduction: To expedite administration of this contract, the delineation of duties listed is provided. The names, addresses and phone numbers for these individuals or offices shall be included in the contract award document. The individual/position designated for responsibility should be contacted for information about the functions assigned. All normal contract administration functions listed at FAR 42.302 are to be performed by the cognizant Contract Administration Office, to be determined upon award, except those listed below, which are hereby retained by the Procuring Contracting Office.

1. Procuring Contracting Office (PCO), Naval Surface Warfare Crane Division is responsible for:
  - a. All Pre-award information, questions, or data.
  - b. Freedom of information inquiries.
  - c. Changes, questions, or information regarding the scope, terms or conditions of the basic contract document.
  - d. Arranging the post award conference
  - e. Consent to the placement of subcontractor's in accordance with FAR 52.244-2, Subcontracts (Cost-Reimbursement and Letter Contracts).
  - f. Ensuring timely notification by the contractor of any anticipated overrun or underrun of the estimated cost under cost-reimbursement contracts (delivery orders).
  - g. Negotiate and execute modification for settlement of partial and complete contract terminations for convenience.
  - h. Negotiate and execute all other modifications except those issued by the Contract Administration Office.
  - i. Approve overtime/negotiate and award delivery orders herein and make scope determinations.

2. Contract Administration Office (CAO): is responsible for matters specified in FAR 42.302 and DFARS 42.302 except those areas otherwise designated herein.
3. Defense Contract Audit Agency (DCAA): is responsible for audit verification/provisional approval of invoices and final audit of the contract prior to final payment to the contractor.
4. The Paying Office is responsible for payment of proper acceptance and documented invoices.
5. The Contracting Officer's Representative (COR) responsibilities are:
  - a. Approves Contractor travel requirements, for which time and date have not been specifically identified in the Statement of Work (SOW), the Contractor's proposal, and the delivery order requirements.
  - b. Prior to award, reviews SOW requirements, making recommendations and clarifications if required.
  - c. Prior to award, reviews Independent Government Estimate of the effort described in the definitized SOW.
  - d. Reviews the appropriate funds for new delivery orders prior to submission to the PCO or designated Ordering Officer.
  - e. Maintains appropriate file documentation to support the COR's actions under this paragraph and paragraph 6.
  - f. Monitors the Contractor for quality assurance of services performed and ensures timely, written certification of the inspection and acceptance of the services.
  - g. Monitors Contractor performance using the techniques of floor checks. This requires on-site observation of Contractor's employees performing under the contract.
  - h. Monitors Contractor's performance to insure against inefficient or wasteful methods or practices. If inefficient or wasteful methods or practices are being used, the COR will take reasonable and timely action to alert the Contractor and PCO. Emphasis is placed on personnel working in specific labor categories to ensure their qualifications match the labor categories the Contractor initially utilized in formulating their proposal and that the labor categories are proper and relative to labor rates proposed in the Delivery Order.
  - i. Conducts surveillance of Contractor performance to determine if the percentage of work performed reasonably corresponds to the percentage of difficulties. This includes reviewing the Contractor's progress reports and furnishing the Contracting Officer written comments, when appropriate, based on the reports and the COR's personal observations.
  - j. Expeditiously reviews Contractor invoices/vouchers, Certificates of Performance, and all supporting documentation. In light of the requirements, the COR reviews Contractor's progress, and other input, both documentary and from personal observation to determine the reasonableness of the billing. The COR further ensures that the effort expended toward the completion of one of the line item deliverables in the contract and its comparability to other documents. The COR will indicate complete or partial concurrence with the Contractor's invoice/voucher by executing the applicable Certificate of Performance furnished by the Contractor, if required. COR shall use a forwarding letter to indicate exceptions to the Contractor's invoice/vouchers. The final invoice/vouchers for any order will not be processed for payment by the payment officer until receipt of the COR's complete concurrence, as noted above, plus certification of inspection and acceptance of services performed.
  - k. Alerts the Contracting Officer of any potential performance problems; and if performance schedule slippage is identified, determine the factors that caused the slippage, reporting them to the Contracting Officer with proposed actions required to eliminate or overcome the causes and recover the slippage, if feasible. Monitors the recovery according to the agreed upon plan, and reports significant problems to the appropriate Contracting Officer.
  - l. Furnishes the Contracting Officer with any Contractor or Technical Code request for change, deviations, or waiver, including timely submission of supporting analysis and other required documentation.
  - m. Ensures that any Government-owned property used by the Contractor for proof of test is monitored and returned in a timely manner.
  - n. Security Requirements at Government installations.
  - o. To submit a written report (Attachment (1)) on the performance of the Contractor to the PCO. The report shall address the timeliness, acceptability of the deliverables, the use made of those deliverables/reports, and the effectiveness of the contractor's performance. The report shall be submitted biannually.
  - p. Ensures strict compliance with DOD Directive 5500 and SECNAVINST 5370.2H regarding standards of conduct and conflict of interest requirements.
  - q. Performs production support, surveillance, and status reporting, including timely reporting of potential and actual slippages in contract delivery schedules.
  - r. Issues Technical Direction Letters, as applicable, and immediately provide copy to the Contracting Officer.

6. The Contracting Officer's Representative (COR) will not:
- Make changes to the terms and conditions of the contract/delivery order.
  - Authorize the expenditure of funds except as expressly provided in the contract or this CAP.
  - Supervise Contractor employees.
  - Perform any action that would result in the contract being changed from non-personal to a personal services contract.

#### **EXPEDITING CONTRACT CLOSEOUT (NAVSEA) (DEC 1995) (5810)**

(a) As part of the negotiated fixed price or total estimated amount of this contract, both the Government and the Contractor have agreed to waive any entitlement that otherwise might accrue to either party in any residual dollar amount of \$500 or less at the time of final contract closeout. The term "residual dollar amount" shall include all money that would otherwise be owed to either party at the end of the contract except that, amounts connected in any way with taxation, allegations of fraud and/or antitrust violations shall be excluded. For purposes of determining residual dollar amounts, offsets of money owed by one party against money that would otherwise be paid by that party may be considered to the extent permitted by law.

(b) This agreement to waive entitlement to residual dollar amounts has been considered by both parties. It is agreed that the administrative costs for either party associated with collected such small dollar amounts could exceed the amount to be recovered.

#### **CONTRACTOR PERFORMANCE ASSESSMENT RATING SYSTEM (CPARS) (JAN 2001) (5811)**

(a) Pursuant to FAR 42.1502, this contract is subject to DoD's Contractor Performance Assessment System (CPARS). CPARS is an automated centralized information system accessible via the Internet that maintains reports of contractor performance for each contract. CPARS is located at <http://www.cpars.navy.mil/>. Further information on CPARS is available at that web-site.

(b) Under CPARS, the Government will conduct annual evaluations of the contractor's performance. The contractor has thirty (30) days after the Government's evaluation is completed to comment on the evaluation. The opportunity to review and comment is limited to this time period and will not be extended. Failure to review the report at this time will not prevent the Government from using the report.

(c) The contractor may request a meeting to discuss the CPAR. The meeting is to be requested via e-mail to the CPARS Program Manager no later than seven days following receipt of the CPAR. A meeting will then be held during the contractor's 30-day review period.

(d) The CPARS system requires the Government to assign the contractor a UserID and password in order to view and comment on the evaluation. Provide the name(s) of at least one individual (not more than three) that will be assigned as your Defense Contractor Representative for CPARS.

Name      Phone      E-mail Address (optional)

_____	_____	_____
_____	_____	_____
_____	_____	_____

#### **PAYMENT STATUS INQUIRIES (5812)**

**Status of invoice payments can be obtained from the following web site:**

[www.dfas.mil/money/vendor](http://www.dfas.mil/money/vendor)

If the **payment is being made by DFAS—Columbus** use the **MOCAS Vendor Pay Inquiry System (VPIS)** site listed on the above web site. It is recommended that the vendor download the "MOCAS VPIS Help Guide" and "Reason and Remark Code Document". You must then register by clicking on "User Registration" under the subheading "MOCAS Vendor Pay Inquiry System" before payment inquiries can be made.

**If payment is being made by other than DFAS-Columbus, status of invoice payment can be obtained through the Non-MOCAS System by cage code, contract number or DUNS number at the above listed web site.**

To determine which system to use see the following blocks of your contract document for payment offices designation:

<u>Document</u>	<u>Block</u>
SF 26 Award/Contract	12
SF 33 Award/Contract	25
SF 1449 Solicitation/Contract/Order for Commercial Items	18a
DD1155 Order for Supplies or Services	15

**ELECTRONIC SUBMISSION OF PAYMENT REQUESTS (5815)**

DFARS 252.232-7003 is hereby incorporated into the contract by reference. For purposes of implementation of electronic finance payment invoicing under NSWCrane contracts, WAWF-RA is applicable in accordance with [Deployment of Wide Area WorkFlow - Receipt and Acceptance](#). OUSD(AT&L)(DP) memo 1 Apr 2002. Other electronic systems are not to be utilized.

For other than finance payment request invoices, NSWCrane is currently working with the WAWF-RA program office to develop an interface between the financial system and WAWF-RA. However, this interface is not currently in place and NSWCrane cannot currently accept WAWF-RA invoices for payment against lines of accounting cited in contracts/orders issued and certified for payment by NSWCrane (DoDAAC N00164 / FC).

In accordance with DFARS 252.232-7003(c), the contractor is required to submit their receipt and acceptance documentation with delivery of the materials. A copy of the invoice for payment shall be submitted, in hard copy or via e-mail, in accordance with the Submission of Invoice Clause and Special Invoice Instructions located elsewhere herein.

SECTION "K" herein will be incorporated by reference and made a material part of any resultant contract in accordance with FAR 15.406-1(b).

The agency authorized to place delivery orders against this contract is: Crane Division, Naval Surface Warfare Center, Crane, IN 47522.

Delivery orders shall be placed against this contract using a DD 1155.

## SECTION "H" - SPECIAL CONTRACT REQUIREMENTS

### ADDITIONAL DEFINITIONS (MAY 1993) (NAVSEA 5252.202-9101)

As used throughout this contract, the following terms shall have the meanings set forth below:

- (a) DEPARTMENT - means the Department of the Navy.
- (b) REFERENCES TO THE FEDERAL ACQUISITION REGULATION (FAR) - All references to the FAR in this contract shall be deemed to also reference the appropriate sections of the Defense FAR Supplement (DFARS), unless clearly indicated otherwise.
- (c) REFERENCES TO ARMED SERVICES PROCUREMENT REGULATION OR DEFENSE ACQUISITION REGULATION - All references in this document to either the Armed Services Procurement Regulation (ASPR) or the Defense Acquisition Regulation (DAR) shall be deemed to be references to the appropriate sections of the FAR/DFARS.
- (d) NATIONAL STOCK NUMBERS - Whenever the term Federal Item Identification Number and its acronym FIIN or the term Federal Stock Number and its acronym FSN appear in the contract, order or their cited specifications and standards, the terms and acronyms shall be interpreted as National Item Identification Number (NIIN) and National Stock Number (NSN) respectively which shall be defined as follows:

(1) National Item Identification Number (NIIN). The number assigned to each approved Item Identification under the Federal Cataloging Program. It consists of nine numeric characters, the first two of which are the National Codification Bureau (NCB) Code. The remaining positions consist of a seven digit non-significant number.

(2) National Stock Number (NSN). The National Stock Number (NSN) for an item of supply consists of the applicable four position Federal Supply Class (FSC) plus the applicable nine position NIIN assigned to the item of supply.

### ORDERS (COST-PLUS-FIXED-FEE) NAVSEA 5252.216-9112 (JUN 2000)

(a) General. Orders for supplies or services specified in Section B of the Schedule may be issued by the Contracting Officer at any time during the effective period of this agreement. Except as otherwise provided in paragraph (e) of this clause, the Contractor agrees to accept and perform orders issued by the Contracting Officer within the scope of this agreement. It is understood and agreed that the Government has no obligation under the terms of this agreement to issue any order8s. Except as otherwise provided in any order, the Contractor shall furnish all materials and services necessary to accomplish the work specified in each order issued hereunder; provided, however, that this agreement shall not be used for the furnishing of supplies or services which are covered by any "guaranty" or "warranty" clause(s) of the contract(s) under which the supplies were manufactured. In the event of any inconsistency between any order and this agreement, this agreement shall control. All the requirements of this agreement shall be applicable to all orders issued hereunder. Wherever the word "contract" appears in this agreement, it shall be deemed to include within its meaning the word "order", and each order shall be considered a separate binding contract as of its effective date. The Contractor shall segregate the costs incurred in the performance of any order issued hereunder from the costs of all other orders issued under this agreement.

(b) Ordering. Orders and revisions thereto shall be made in writing and be signed by any authorized Contracting Officer cited in paragraph (i). Each order shall:

- (1) set forth detailed specifications or requirements for the supplies or services being ordered, (or reference applicable specifications or requirements in Section C of this agreement), and, if applicable, shall refer to the appropriate item under Section B of this agreement;
- (2) set forth quantities being ordered;
- (3) set forth preservation, packaging and packing instructions, if any;
- (4) set forth delivery or performance dates;
- (5) designate the place(s) where inspection and acceptance will be made by the Government;
- (6) set forth the estimated cost and fixed fee or, in the case of an undefinitized order, the definitization schedule and both the monetary limitation on Government liability for the undefinitized order and the maximum ceiling amount at which the order may be definitized;
- (7) set forth appropriation and accounting data for the work being ordered;
- (8) be dated;
- (9) be identified by number in accordance with DFARS 204.7004;
- (10) set forth the property, if any, to be furnished by the Government and the date(s) such property is to be delivered to the Contractor;
- (11) set forth the disbursing office where payment is to be made and other applicable contract administration data;



(12) cite the applicable circumstance or exception and the justification control number.

Orders for items not identified in the class justification, or an individual justification and the basic ordering agreement are unauthorized;

(13) be issued on an SF 26 or DD Form 1155; and

(14) set forth any other pertinent information.

(c) Priced Orders. Except as otherwise provided in paragraph (d) below, the Contractor shall not begin any work on an order until the estimated cost and fixed fee for the order have been agreed upon by the Contracting Officer and Contractor and an order is issued by the Contracting Officer. Upon receipt of a proposed order, the Contractor shall promptly submit to the Contracting Officer a cost proposal for the work specified in the order. The Contractor shall submit such cost or pricing data as the Contracting Officer may require. Promptly after receipt of the Contractor's proposal and supporting cost or pricing data, the Contractor and the Contracting Officer shall negotiate and agree upon the estimated cost, fixed fee, and delivery schedule for the work being ordered. The estimated cost, fixed fee, and delivery schedule, as agreed upon, shall be set forth in the priced order and the order shall be signed by both the Contracting Officer and the Contractor. Upon receipt of the priced order, the Contractor shall promptly commence work and shall diligently complete it.

(d) Unpriced Orders. Whenever the Contracting Officer determines that urgent demands or requirements prevent the issuance of a priced order, the Contracting Officer may issue an unpriced order. Such order may be unilateral or bilateral and shall establish a limitation on Government liability, a maximum ceiling amount, and a schedule for definitization of the order, as described in subparagraph (f)(2) below. Upon request, the Contractor shall submit a maximum ceiling amount proposal before the unpriced order is issued. The maximum ceiling amount is the maximum amount (including fee) at which the order may be definitized. Except as provided in paragraph (e) below, the Contractor shall commence performance of the order upon receipt. The clause entitled "CONTRACT DEFINITIZATION" (DFARS 252.217-7027) shall be included in any unpriced order.

(e) Rejection of Unilateral Orders. The Contractor may reject any unilateral order if the Contractor determines that it cannot feasibly perform the order or if it does not concur with the maximum ceiling amount. However, each unilateral order shall be deemed to have been accepted by the Contractor unless within fifteen (15) days of issuance of the order the Contractor notifies the Contracting Officer in writing of its rejection of the order.

(f) Definitization of Unpriced Orders. (1) The Contractor agrees that following the issuance of an unpriced order, it will promptly begin negotiating with the Contracting Officer the CPFF and terms of a definitive order that will include: (A) all clauses required by regulation on the date of the order; (B) all clauses required by law on the date of execution of the definitive order; and, (C) other mutually agreeable clauses, terms and/or conditions. No later than sixty (60) days after the unpriced order is issued, the Contractor shall submit a cost proposal with sufficient data to support the accuracy and derivation of its CPFF proposal; and, when required by FAR or the Contracting Officer, cost or pricing data. If additional cost information is available prior to the conclusion of negotiations, the Contractor shall provide that information to the Contracting Officer. The CPFF agreed upon shall be set forth in a bilateral modification to the order. In no event shall the CPFF exceed the maximum ceiling amount specified in the unpriced order.

(2) Each unpriced order shall contain a schedule for definitization which shall include a target date for definitization and dates for submission of a qualifying proposal, beginning of negotiations and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data. Submission of a qualifying proposal in accordance with the definitization schedule is a material element of the order. The schedule shall provide for definitization of the order by the earlier of:

(i) a specified target date which is not more than 180 days after the issuance of the unpriced order. However, that target date may be extended by the Contracting Officer for up to 180 days after the Contractor submits a qualifying proposal as defined in DFARS 217.7401; or

(ii) the date on which the amount of funds obligated by the Government under the unpriced order exceeds fifty percent (50%) of the order's maximum ceiling amount, except as provided in subparagraph (f)(3) below.

(3) If agreement on a definitive order is not reached within the time provided pursuant to subparagraph (f)(2) above, the Contracting Officer may, with the approval of the Head of the Contracting Activity, determine a reasonable CPFF in accordance with Subpart 15.4 and Part 31 of the FAR, and issue a unilateral order subject to Contractor appeal as provided in the "DISPUTES" clause (FAR 52.233-1). In any event, the Contractor shall proceed with completion of the order, subject to the "LIMITATION OF GOVERNMENT LIABILITY" clause (FAR 52.216-24).

(2) Except for unpriced orders for Foreign Military Sales; purchases of less than \$25,000; special access programs; and Congressionally-mandated long-lead procurements; and except as otherwise provided in subparagraph (g)(3) below, the limitation of Government liability shall not exceed fifty percent (50%) of the maximum ceiling amount of an unpriced order. In the case of orders within these excepted categories, however, the procedures set forth herein shall be followed to the maximum extent practical.

(3) If the Contractor submits a qualifying proposal, as defined in DFARS 217.7401 to definitize an order before the Government obligated fifty percent (50%) of the maximum ceiling amount, the Contracting Officer may increase the limitation of Government Liability up to no more than seventy-five percent (75%) of the maximum ceiling amount or up to seventy-five percent (75%) of the total CPFF proposed by the Contractor, whichever is less.

(4) If at any time the Contractor believes that its expenditure under an order will exceed the limitation of Government liability, the Contractor shall so notify the Contracting Officer, in writing, and propose an appropriate increase in the limitation of Government liability of such order. Within thirty (30) days of such notice, the Contracting Officer will either (i) notify the Contractor in writing of such appropriate increase, or (ii) instruct the Contractor how and to what extent the work shall be continued; provided, however, that in no event shall the Contractor be obligated to proceed with work on an undefinitized order beyond the point where its costs incurred plus a reasonable profit exceed the limitation of Government liability, and provided also that in no event shall the Government be obligated to pay the Contractor any amount in excess of the limitation of Government liability specified in any such order prior to definitization.

#### **GOVERNMENT-INDUSTRY DATA EXCHANGE PROGRAM (AUG 1997) (NAVSEA 5252.227-9113)**

- (a) The Contractor shall participate in the appropriate interchange of the Government-Industry Data Exchange Program (GIDEP) in accordance with NAVSEA S0300-BU-GYD-010 dated November 1994. Data entered is retained by the program and provided to qualified participants. Compliance with this requirement shall not relieve the Contractor from complying with any other requirement of the contract.
- (b) The Contractor agrees to insert paragraph (a) of this requirement in any subcontract hereunder exceeding \$500,000.00. When so inserted, the word "Contractor" shall be changed to "Subcontractor".
- (c) GIDEP materials, software and information are available without charge from:

GIDEP Operations Center  
P.O. Box 8000  
Corona, CA 91718-8000

Phone: (909) 273-4677 or DSN 933-4677  
FAX: (909) 273-5200  
Internet: <http://www.gidep.corona.navy.mil>

#### **ALLOTMENT OF FUNDS (MAY 1993) (NAVSEA 5252.232-9104)**

(a) This contract is incrementally funded with respect to both cost and fee. The amount(s) presently available and allotted to this contract for payment of fee for incrementally funded contract line item number/contract subline item number (CLIN/SLIN), subject to the clause entitled "FIXED FEE" (FAR 52.216-8) or "INCENTIVE FEE" (FAR 52.216-10), as appropriate, is specified below. The amount(s) presently available and allotted to this contract for payment of cost for incrementally funded CLINs/SLINs is set forth below. As provided in the clause of this contract entitled "LIMITATION OF FUNDS" (FAR 52.232-22), the CLINs/SLINs covered thereby, and the period of performance for which it is estimated the allotted amount(s) will cover are as follows:

<u>*ITEM(S)</u>	<u>*ALLOTTED TO COST</u>	<u>*ALLOTTED TO FEE</u>	<u>*ESTIMATED PERIOD OF PERFORMANCE</u>
	\$	\$	

- (b) The parties contemplate that the Government will allot additional amounts to this contract from time to time for the incrementally funded CLIN/SLIN's by unilateral contract modification, and any such modification shall state separately the amount(s) allotted for cost, the amount(s) allotted for fee, the CLIN/SLIN's covered thereby, and the period of performance which the amount(s) are expected to cover.
- (c) CLINs/SLINs are fully funded and performance under these CLINs/SLINs is subject to the clause of this contract entitled "LIMITATION OF COST" (FAR 52.232-20) or "LIMITATION OF COST (FACILITIES)" (FAR 52.232-21), as applicable.
- (d) The Contractor shall segregate costs for the performance of incrementally funded CLINs/SLINs from the costs of performance of fully funded CLINs/SLINs.

**\*NOTE:** The above to be completed as specified by delivery orders.

#### **GOVERNMENT-FURNISHED PROPERTY (PERFORMANCE) (SEP 1990) (NAVSEA 5252.245-9108)**

The Government will provide only that property set forth below, notwithstanding any term or condition of this contract to the contrary.

\*SEE INDIVIDUAL DELIVERY ORDERS FOR APPLICABLE GFP

#### **TECHNICAL INSTRUCTIONS (MAY 1993) (NAVSEA 5252.242-9115)**

(a) Performance of the work hereunder shall be subject to written technical instructions signed by the Contracting Officer's Representative specified in Section G of this contract. As used herein, technical instructions are defined to include the following:

(1) Directions to the Contractor which suggest pursuit of certain lines of inquiry, shift work emphasis, fill in details or otherwise serve to accomplish the contractual statement of work.

(2) Guidelines to the Contractor which assist in the interpretation of drawings, specifications or technical portions of work description.

(b) Technical instructions must be within the scope of work stated in the delivery orders. Technical instructions may not be used to: (1) assign additional work under the contract; (2) direct a change as defined in the "CHANGES" clause of this contract; (3) increase or decrease the contract price or estimated contract amount (including fee), as applicable, the level of effort, or the time required for contract performance; or (4) change any of the terms, conditions or specifications of the contract.

(c) If, in the opinion of the Contractor, any technical instruction calls for effort outside the scope of the contract or is inconsistent with this requirement, the Contractor shall notify the Contracting Officer in writing within ten (10) working days after the receipt of any such instruction. The Contractor shall not proceed with the work affected by the technical instruction unless and until the Contractor is notified by the Contracting Officer that the technical instruction is within the scope of this contract.

(d) Nothing in the foregoing paragraph shall be construed to excuse the Contractor from performing that portion of the contractual work statement which is not affected by the disputed technical instruction.

## WORK WEEK

(a) All or a portion of the effort under this contract will be performed on a Government installation. The normal workweek shall be Monday through Friday for all straight time worked. No deviation in the normal workweek will be permitted without express advance approval in writing by the designated Contracting Officer with coordination of the using departments. In the event that the contractor fails to observe such normal workweek, any costs incurred by the Government resulting therefrom shall be chargeable to the contractor. Work on Center shall be performed during the normal work hours at that location unless differing hours are specified on the individual delivery orders.

For purposes of scheduling personnel, the contractor is hereby advised that the Government Installation will observe the following holidays. The contractor is further advised that access to the Government installation may be restricted on these holidays:

NAME OF HOLIDAY	TIME OBSERVANCE
New Years Day	01 January
Martin Luther King Jr's Birthday	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	04 July
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veteran's Day	11 November
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Christmas Day	25 December

(b) In the event any of the above holidays occur on a Saturday or a Sunday, then such holiday shall be observed by the Contractor in accordance with the practice as observed by the assigned Government employees at the using Activity.

(c) In the event the Contractor is prevented from performance as the result of an Executive Order or an administrative leave determination apply to the using activity, such time may be charged in accordance with the contractors approved accounting practices. Any administrative leave time shall not be charged directly to the delivery order.

## SECTION "T" - CONTRACT CLAUSES

PART I

<u>FAR Subsection</u>	<u>Title</u>	<u>Date</u>
52.202-01	Definitions	Dec 2001
52.203-03	Gratuities	Apr 1984
52.203-05	Covenant Against Contingent Fees	Apr1984
52.203-06	Restrictions on Subcontractor Sales to the Government	Jul 1995
52.203-07	Anti-Kickback Procedures	Jul 1995
52.203-08	Cancellation, Rescission, and Recovery of Funds for illegal or Improper Activity	Jan 1997
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity	Jan 1997
52.203-12	Limitation on Payments to Influence Certain Federal Transactions	Jun 2003
52.204-02	Security Requirements	Aug 1996
52.204-04	Printing/Copying Double-Sided on Recycled Paper	Aug 2000
52.209-06	Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Debarment	Jul 1995
52.211-15	Defense Priority and Allocation Requirements	Sep 1990
52.215-02	Audit and Records Negotiation	Jun 1999
52.215-08	Order of Precedence-Uniform Contract Format	Oct 1997
52.215-10	Price Reduction for Defective Cost or Pricing Data	Oct 1997
52.215-12	Subcontractor Cost or Pricing Data	Oct 1997
52.215-14	Integrity of Unit Prices	Oct 1997
52.215-15	Pension Adjustments and Asset Reversions	Jun 2004
52.215-19	Notification of Ownership Changes	Oct 1997
52.216-07	Allowable Cost and Payment	Dec 2002
52.216-08	Fixed Fee	Mar 1997
52.219-08	Utilization of Small Business Concerns	Oct 2000
52.219-14	Limitations on Subcontracting	Dec 1996
52.219-27	Notice of Total Service-Disabled Veteran-Owned Small Business Set-Aside	May 2004
52.222-03	Convict Labor	Jun 2003
52.222-19	Child Labor – Corperation with Authorities and Remedies	Jan 2004
52.222-21	Prohibition of Segregated Facilities	Feb 1999
52.222-26	Equal Opportunity	Apr 2002
52.222-35	Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans	Dec 2001
52.222-36	Affirmative Action for Workers with Disabilities	Jun 1998
52.222-37	Employment Reports on Disabled Veterans and Veterans of the Vietnam Era	Dec 2001
52.222-41	Service Contract Act of 1965, as Amended	May 1989
52.223-05	Pollution Prevention and Right-To-Know Information	Aug 2003
52.223-06	Drug-Free Workplace	May 2001
52.223-14	Toxic Chemical Release Reporting	Aug 2003
52.225-13	Restrictions on Certain Foreign Purchases	Dec 2003
52.227-01	Authorization and Consent	Jul 1995
52.227-02	Notice and Assistance Regarding Patent and Copyright Infringement	Aug 1996
52.228-07	Insurance-- Liability to Third Persons	Mar 1996
52.229-03	Federal, State, and Local Taxes	Apr 2003
52.229-05	Taxes-Contracts Performed In U.S. Possessions or Puerto Rico	
52.232-08	Discounts For Prompt Payment	Feb 2002
52.232-17	Interest	Jun 1996
52.232-20	Limitation of Cost	Apr 1984

52.232-22	Limitation of Funds	Apr 1984
52.232-23	Assignment of Claims (Apr 1984)--Alternate I	Jan 1986
52.232-25	Prompt Payment – Alternate I (Feb 2002)	Oct 2003
52.232-33	Payment by Electronic Funds Transfer--Central Contractor Registration	May 1999
52.233-01	Disputes	Jul 2002
52.233-03	Protest After Award (Aug 1996)--Alternate I	Jun 1985
52.237-02	Protection of Government Buildings, Equipment, and Vegetation	Apr 1984
52.237-03	Continuity of Services	Jan 1991
52.237-10	Identification of Uncompensated Overtime	Oct 1997
52.242-01	Notice of Intent to Disallow Costs	Apr 1984
52.242-03	Penalties for Unallowable Costs	May 2001
52.242-04	Certification of Indirect Costs	Jan 1997
52.242-13	Bankruptcy	Jul 1995
52.243-02	Changes-- Cost-Reimbursement (Aug 1987)--Alternate II	Apr 1984
52.245-05	Government Property (Cost Reimbursement, Time-and-Material, or Labor Hour Contract) (Deviation)	May 2004
52.246-25	Limitation of Liability—Services	Feb 1997
52.247-01	Commercial Bill of Lading Notations	Apr 1984
52.247-67	Submission of Commercial Transportation Bills to the General Services Administration for Audit	Jun 1997
52.249-06	Termination (Cost-Reimbursement)	Sep 1996
52.249-14	Excusable Delays	Apr 1984
52.253-01	Computer Generated Forms	Jan 1991
	<u>PART II</u>	
<u>DFARS</u> <u>Subsection</u>	<u>Title</u>	<u>Date</u>
252.203-7001	Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	Mar 1999
252.203-7002	Display of DOD Hotline Poster	Dec 1991
252.204-7000	Disclosure of Information	Dec 1991
252.204-7003	Control of Government Personnel Work Product	Apr 1992
252.204-7005	Oral Attestation of Security Responsibilities	Nov 2001
252.205-7000	Provision of Information to Cooperative Agreement Holders	Dec 1991
252.209-7000	Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty	Nov 1995
252.209-7004	Subcontracting with Firms that are owned or controlled by the Government of a Terrorist Country	Mar 1998
252.215-7000	Pricing Adjustments	Dec 1991
252.215-7002	Cost Estimating System Requirements	Oct 1998
252.219-7003	Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (DOD Contracts)	Apr 1996
252.223-7004	Drug-Free Work Force	Sep 1988
252.223-7006	Prohibition on Storage and Disposal of Toxic and Hazardous Materials	Apr 1993
252.225-7012	Preference for Certain Domestic Commodities	Jun 2004
252.225-7031	Secondary Arab Boycott of Israel	Apr 2003
252.227-7013	Rights in Technical Data - Noncommercial Items	Nov 1995
252.227-7014	Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation	Jun 1995
252.227-7016	Rights in Bid or Proposal Information	Jun 1995
252.227-7020	Rights in Special Works	Jun 1995
252.227-7030	Technical Data—Withholding of Payment	Mar 2000
252.227-7036	Declaration of Technical Data Conformity	Jan 1997
252.227-7037	Validation of Restrictive Markings on Technical Data	Sep 1999
252.231-7000	Supplemental Cost Principles	Dec 1991
252.239-7000	Protection Against Compromising Emanations	Dec 1991
252.242-7000	Postaward Conference	Dec 1991

252.242-7004	Material Management and Accounting System Requirements and Standards	Dec 2002
252.242-7005	Cost-Schedule Status Report	Mar 1998
252.243-7002	Request for Equitable Adjustment	Mar 1998
252.244-7000	Subcontracts for Commercial Items and Commercial Components (DoD Contracts)	Mar 2000
252.246-7001	Warranty of Data	Dec 1991
252.247-7023	Transportation of Supplies by Sea	Mar 2000

### CLAUSES IN FULL TEXT

#### **REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA--MODIFICATIONS (OCT 1997) (FAR 52.215-21)**

(a) *Exceptions from cost or pricing data.* (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable--

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Information on modifications of contracts or subcontracts for commercial items.* (A) If--

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include--

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(4) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

#### **ORDERING (OCT 1995) (FAR 52.216-18)**

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the effective date of the contract through five years from

the effective date of contract award.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the Schedule.

#### **ORDER LIMITATIONS (OCT 1995) (FAR 52.216-19)**

(a) Minimum Order. When the Government requires supplies or services covered by this contract in an amount of less than 50 hours, the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum Order. The Contractor is not obligated to honor--

(1) Any order for a single item in excess of 150,000 hours.

(2) Any order for a combination of items in excess of 150,000;

or

(3) A series of orders from the same ordering office within 15 days that together call for quantities exceeding the limitation in subparagraph (1) or (2) of this section.

(c) If this is a requirement contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within 14 days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for the reasons. Upon receiving this notice, the Government may acquire the supplies or service from another source.

#### **INDEFINITE QUANTITY (OCT 1995) (FAR 52.216-22)**

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum."

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after 5 years after contract award.

#### **NOTIFICATION OF COMPETITION LIMITED TO ELIGIBLE 8(A) CONCERNS (JUN 2003) (FAR 52.219-18)**

(a) Offers are solicited only from small business concerns expressly certified by the Small Business Administration (SBA) for participation in the SBA's 8(a) Program and which meet the following criteria at the time of submission of offer --

([1]) The Offeror is in conformance with the 8(a) support limitation set forth in its approved business plan; and

([2]) The Offeror is in conformance with the Business Activity Targets set forth in its approved business plan or any remedial action directed by the SBA.

(b) By submission of its offer, the Offeror represents that it meets all of the criteria set forth in paragraph (a) of this clause.

#### **ALTERNATE A (JUN 1998) DFAR 252.219-7010**

© Any award resulting from this solicitation will be made directly by the Contracting Officer to the successful 8(a) offeror selected through the evaluation criteria set forth in this solicitation.

(d)

(1) *Agreement.* A small business concern submitting an offer in its own name agrees to furnish, in performing the contract, only end items manufactured or produced by small business concerns in the United States. The term "United States" includes its territories and possessions, the Commonwealth of Puerto Rico, the trust territory of the Pacific Islands, and the District of Columbia. If this procurement is processed under simplified acquisition procedures and the total amount of this contract does not exceed \$25,000, a

small business concern may furnish the product of any domestic firm. This subparagraph does not apply in connection with construction or service contracts.

(2) The \_\_\_\_\_ [insert name of SBA's contractor] will notify the NAVSURFWARCEN Crane Contracting Officer in writing immediately upon entering an agreement (either oral or written) to transfer all or part of its stock or other ownership interest to any other party.

#### **SECTION 8(a) DIRECT AWARD (MAR 2002) (252.219-7009)**

This contract is issued as a direct award between the contracting office and the 8(a) Contractor pursuant to the Partnership Agreement dated February 1, 2002, between the Small Business Administration (SBA) and the Department of Defense. Accordingly, the SBA, even if not identified in Section A of this contract, is the prime contractor and retains responsibility for 8(a) certification, for 8(a) eligibility determinations and related issues, and for providing counseling and assistance to the 8(a) Contractor under the 8(a) Program. The cognizant SBA district office is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*[To be completed by the Contracting Officer at the time of award]*

(b) The contracting office is responsible for administering the contract and for taking any action on behalf of the Government under the terms and conditions of the contract; provided that the contracting office shall give advance notice to the SBA before it issues a final notice terminating performance, either in whole or in part, under the contract. The contracting office also shall coordinate with the SBA prior to processing any novation agreement. The contracting office may assign contract administration functions to a contract administration office.

(c) The 8(a) Contractor agrees that-

(1) It will notify the Contracting Officer, simultaneous with its notification to the SBA (as required by SBA's 8(a) regulations at 13 CFR 124.308), when the owner or owners upon whom 8(a) eligibility is based plan to relinquish ownership or control of the concern. Consistent with Section 407 of Pub. L. 100-656, transfer of ownership or control shall result in termination of the contract for convenience, unless the SBA waives the requirement for termination prior to the actual relinquishing of ownership and control; and

(2) It will not subcontract the performance of any of the requirements of this contract without the prior written approval of the SBA and the Contracting Officer.

(End of clause)

#### **PAYMENT FOR OVERTIME PREMIUMS (JUL 1990) (FAR 52.222-2)**

(a) The use of overtime is authorized under this contract if the overtime premium does not exceed \*11,415 premium overtime or the overtime premium is paid for work--

(1) Necessary to cope with emergencies such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(2) By indirect-labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(3) To perform tests, industrial processes, laboratory procedures, loading or unloading of transportation conveyances, and operations in flight or afloat that are continuous in nature and cannot reasonably be interrupted or completed otherwise; or

(4) That will result in lower overall costs to the Government.

(b) Any request for estimated overtime premiums that exceeds the amount specified above shall include all estimated overtime for contract completion and shall--

(1) Identify the work unit; e.g., department or section in which the requested overtime will be used, together with present workload, staffing, and other data of the affected unit sufficient to permit the Contracting Officer to evaluate the necessity for the overtime;

(2) Demonstrate the effect that denial of the request will have on the contract delivery or performance schedule;

(3) Identify the extent to which approval of overtime would affect the performance or payments in connection with other Government contracts, together with identification of each affected contract; and

(4) Provide reasons why the required work cannot be performed by using multishift operations or by employing additional personnel.



**\*NOTE:** Each delivery order shall specify the portion of overtime hours which are authorized for each effort. Any overtime worked beyond that specified by the delivery order shall be at the contractor's own risk.

#### **PROHIBITION OF SEGREGATED FACILITIES (52.222-21) (FEB 1999)**

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms and necessary dressing or sleeping areas, which shall be provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

#### **STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989) (FAR 52.222-42)**

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), this clause identifies the classes of service employees expected to be employed under the contract and states the wages and fringe benefits payable to each if they were employed by the contracting agency subject to the provisions of 5 U.S.C. 5341 or 5332.

THIS STATEMENT IS FOR INFORMATION ONLY:  
IT IS NOT A WAGE DETERMINATION

<b>Employee Class</b>	<b>Monetary Wage – Fringe Benefits</b>
<u>Electronic Technician, GS-11</u>	<u>\$79.48</u>
<u>Senior Electronic Technician, GS-12</u>	<u>\$79.48</u>
<u>Scientist, GS-12</u>	<u>\$79.48</u>
<u>Senior Eng GS-12</u>	<u>\$79.48</u>
<u>Engineer GS-11</u>	<u>\$79.48</u>
<u>Engineer Tech GS-11</u>	<u>\$79.48</u>
<u>Sr. Eng. Tech GS-11</u>	<u>\$79.48</u>
<u>Program Analyst GS-11/12</u>	<u>\$66.65</u>
<u>Production Mgr. GS-11</u>	<u>\$66.65</u>
<u>Draftsman, GS-9</u>	<u>\$66.65</u>
<u>Admin Assistant, GS-7</u>	<u>\$52.00</u>
<u>Travel Clerk GS-7</u>	<u>\$52.00</u>
<u>Welder GS-7</u>	<u>\$52.00</u>
<u>Draftsman GS-7/9</u>	<u>\$52.00</u>

#### **POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998)(FAR 52.223-5)**

(a) Executive Order 12856 of August 3, 1993 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to Know Act of 1986 (EPCRA)(42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA)(42 U.S.C. 13101-13109).

(b) The Contractor shall provide all information needed by the Federal facility to comply with the emergency planning and reporting requirements of Section 302 of EPCRA; the emergency notice requirements of Section 304 of EPCRA; the list of Material Safety Data Sheets required by Section 311 of EPCRA; the emergency and hazardous chemical inventory forms of Section 312 of EPCRA; the toxic chemical release inventory of Section 313 of EPCRA, which includes the reduction and recycling information required by Section 6607 of PPA; and the toxic chemical reduction goals requirements of Section 3-302 of Executive Order 12856.

#### **LIMITATION OF FUNDS (APR 1984) (FAR 52.232-22)**

(a) The parties estimate that performance of this contract will not cost the Government more than (1) the estimated cost specified in the Schedule or, (2) if this is a cost-sharing contract, the Government's share of the estimated cost specified in the Schedule. The Contractor agrees to use its best efforts to perform the work specified in the Schedule and all obligations under this contract within the estimated cost, which, if this is a cost-sharing contract, includes both the Government's and the Contractor's share of the cost.

(b) The Schedule specifies the amount presently available for payment by the Government and allotted to this contract, the items covered, the Government's share of the cost if this is a cost-sharing contract, and the period of performance it is estimated the allotted amount will cover. The parties contemplate that the Government will allot additional funds incrementally to the contract up to the full estimated cost to the Government specified in the Schedule, exclusive of any fee. The Contractor agrees to perform, or have performed, work on the contract up to the point at which the total amount paid and payable by the Government under the contract approximates but does not exceed the total amount actually allotted by the Government to the contract.

(c) The Contractor shall notify the Contracting Officer in writing whenever it has reason to believe that the costs it expects to incur under this contract in the next 60 days, when added to all costs previously incurred, will exceed 75 percent of (1) the total amount so far allotted to the contract by the Government or, (2) if this is a cost-sharing contract, the amount then allotted to the contract by the Government plus the Contractor's corresponding share. The notice shall state the estimated amount of additional funds required to continue performance for the period specified in the Schedule.

(d) Sixty days before the end of the period specified in the Schedule, the Contractor shall notify the Contracting Officer in writing of the estimated amount of additional funds, if any, required to continue timely performance under the contract or for any further period specified in the Schedule or otherwise agreed upon, and when the funds will be required.

(e) If, after notification, additional funds are not allotted by the end of the period specified in the Schedule or another agreed-upon date, upon the Contractor's written request the Contracting Officer will terminate this contract on that date in accordance with the provisions of the Termination clause of this contract. If the Contractor estimates that the funds available will allow it to continue to discharge its obligations beyond that date, it may specify a later date in its request, and the Contracting Officer may terminate this contract on that later date.

(f) Except as required by other provisions of this contract, specifically citing and stated to be an exception to this clause--

(1) The Government is not obligated to reimburse the Contractor for costs incurred in excess of the total amount allotted by the Government to this contract; and

(2) The Contractor is not obligated to continue performance under this contract (including actions under the Termination clause of this contract) or otherwise incur costs in excess of (i) the amount then allotted to the contract by the Government or, (ii) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, until the Contracting Officer notifies the Contractor in writing that the amount allotted by the Government has been increased and specifies an increased amount, which shall then constitute the total amount allotted by the Government to this contract.

(g) The estimated cost shall be increased to the extent that (1) the amount allotted by the Government or, (2) if this is a cost-sharing contract, the amount then allotted by the Government to the contract plus the Contractor's corresponding share, exceeds the estimated cost specified in the Schedule. If this is a cost-sharing contract, the increase shall be allocated in accordance with the formula specified in the Schedule.

(h) No notice, communication, or representation in any form other than that specified in subparagraph (f)(2) above, or from any person other than the Contracting Officer, shall affect the amount allotted by the Government to this contract. In the absence of the specified notice, the Government is not obligated to reimburse the Contractor for any costs in excess of the total amount allotted by the Government to this contract, whether incurred during the course of the contract or as a result of termination.

(i) When and to the extent that the amount allotted by the Government to the contract is increased, any costs the Contractor incurs before the increase that are in excess of (1) the amount previously allotted by the Government or, (2) if this is a cost-sharing contract, the amount previously allotted by the Government to the contract plus the Contractor's corresponding share, shall be allowable to the same extent as if incurred afterward, unless the Contracting Officer issues a termination or other notice and directs that the increase is solely to cover termination or other specified expenses.

(j) Change orders shall not be considered an authorization to exceed the amount allotted by the Government specified in the Schedule, unless they contain a statement increasing the amount allotted.

(k) Nothing in this clause shall affect the right of the Government to terminate this contract. If this contract is terminated, the Government and the Contractor shall negotiate an equitable distribution of all property produced or purchased under the contract, based upon the share of costs incurred by each.

(l) If the Government does not allot sufficient funds to allow completion of the work, the Contractor is entitled to a percentage of the fee specified in the Schedule equaling the percentage of completion of the work contemplated by this contract.

**SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS (FAR 52.244-6)  
(MAY 2004)**

(a) *Definitions.*

"*Commercial item*," as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

"*Subcontract*," as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

- (1) 52.222-26, Equal Opportunity (E.O.11246);
- (2) 52.222-35, Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C.4212(a));
- (3) 52.222-36, Affirmative Action for Workers with Disabilities (29 U.S.C.793); and
- (4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C.1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

**VALUE ENGINEERING (FEB 2000) (FAR 52.248-1)**

As prescribed in 48.201, insert the following clause:

(a) *General.* The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) *Definitions.*

"*Acquisition savings*," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include --

- (1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;
- (2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and
- (3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"*Collateral costs*," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

"*Collateral savings*," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"*Contracting office*" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"*Contractor's development and implementation costs*," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"*Future unit cost reduction*," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either --

- (1) Throughout the sharing period, unless the Contracting Officer decides that recalculation is necessary because conditions are significantly different from those previously anticipated; or
- (2) To the calculation of a lump-sum payment, which cannot later be revised.

"*Government costs*," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"*Instant contract*," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in

quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

*"Instant unit cost reduction"* means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

*"Negative instant contract savings"* means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

*"Net acquisition savings"* means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

*"Sharing base,"* as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

*"Sharing period,"* as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

*"Unit,"* as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

*"Value engineering change proposal (VECP)"* means a proposal that --

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change --
  - (i) In deliverable end item quantities only;
  - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
  - (iii) To the contract type only.

(c) *VECP preparation.* As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (c)(1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
- (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
- (3) Identification of the unit to which the VECP applies.
- (4) A separate, detailed cost estimate for
  - (i) the affected portions of the existing contract requirement and
  - (ii) the VECP.

The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.

- (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
- (6) A prediction of any effects the proposed change would have on collateral costs to the agency.
- (7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.
- (8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) *Submission.* The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.

(e) *Government action.*

- (1) The Contracting Officer [will] notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer [will] notify the Contractor within the 45-day period and provide the

reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it **[will]** not be liable for any delay in acting upon a VECP.

(2) If the VECP is not accepted, the Contracting Officer **[will]** notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

(3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The [ ] decision to accept or reject all or part of any VECP **[is a unilateral decision made solely at the discretion of the Contracting Officer.]**

(f) *Sharing rates.* If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon --

(1) This contract's type (fixed-price, incentive, or cost-reimbursement);

(2) The sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule); and

(3) The source of the savings (the instant contract, or concurrent and future contracts), as follows:

#### **CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS**

(Figures in percent)

Contract Type	Incentive (Voluntary)		Program Requirement (Mandatory)	
	Instant Contract Rate	Concurrent and Future Contract Rate	Instant Contract Rate	Concurrent and Future Contract Rate
Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts)	(1) 50	(1) 50	(1) 25	25
Incentive (fixed-price or cost) (other than award fee)	(2)	(1) 50	(2)	25
Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts)	(3) 25	(3) 25	15	15

(1) The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.

(2) Same sharing arrangement as the contract's profit or fee adjustment formula.

(3) The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) *Calculating net acquisition savings.*

(1) Acquisition savings are realized when

(i) the cost or price is reduced on the instant contract,

(ii) reductions are negotiated in concurrent contracts,

(iii) future contracts are awarded, or

(iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below).

Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) *Contract adjustment.* The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall --

- (1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;
- (2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;
- (3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;
- (4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and
- (5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:
  - (i) Fixed-price contracts -- add to contract price.
  - (ii) Cost-reimbursement contracts -- add to contract fee.

(i) *Concurrent and future contract savings.*

- (1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.
- (2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by --
  - (i) Subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset; and
  - (ii) Multiplying the result by the Contractor's sharing rate.
- (3) The Contracting Officer shall calculate the Contractor's share of future contract savings by --
  - (i) Multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period;
  - (ii) Subtracting any Government costs or negative instant contract savings not yet offset; and
  - (iii) Multiplying the result by the Contractor's sharing rate.
- (4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.
- (5) *Alternate no-cost settlement method.* When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:
  - (i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.
  - (ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.

(j) *Collateral savings.* If a VECP is accepted, **[the Contracting Officer will increase]** the instant contract amount[ ], as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings **[will]** not exceed[ ] the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or [ ] \$100,000, whichever is greater. The Contracting Officer **[will]** be the sole determiner of the amount of collateral savings[ ].

(k) *Relationship to other incentives.* Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) *Subcontracts.* The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or

collateral savings.

(m) *Data*. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

These data, furnished under the Value Engineering clause of contract \_\_\_\_\_, shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations.

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

#### **CLAUSES INCORPORATED BY REFERENCE (FEB 1998) (FAR 52.252-2)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these addresses (es): <http://www.farsite.hill.af.mil/>

#### **AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984) (FAR 52.252-6)**

(a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the clause.

(b) The use in this solicitation or contract of any Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2) clause with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

#### **CONTRACT DEFINITIZATION (OCT 1998) (DFARS 252.217-7027)**

a) A Cost Plus Fixed Fee (CPFF), Indefinite Delivery-Indefinite Quantity (IDIQ) type of contract action is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the undefinitized contract action, (2) all clauses required by law on the date of execution of the definitive contract action, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a Cost Plus Fixed Fee (CPFF), Indefinite Delivery-Indefinite Quantity (IDIQ) proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract action is as follows (*insert target date for definitization of the contract action and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of the make-or-buy and subcontracting plans and cost or pricing data*): \*


**\* To be completed for each undefinitized contractual action.**

(c) If agreement on a definitive contract action to supersede this undefinitized contract action is not reached by the target date in paragraph (b) of this clause, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of the head of the contracting activity, determine a reasonable price or fee in accordance with Subpart 15.4 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to the Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by-

(i) All clauses required by the FAR on the date of execution of this undefinitized contract action for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this clause, all clauses, terms, and conditions included in this undefinitized contract

action shall continue in effect, except those that by their nature apply only to an undefinitized contract action.

(d) The definitive contract resulting from this undefinitized contract action will include a negotiated Cost and Fixed Fee Ceiling in no event to exceed \_\_\_\_\_\* (*insert the not-to-exceed amount*).

**\* To be completed for each undefinitized contractual action.**

#### **RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS (NOV 1995) (DFAR 252.227-7013)**

(a) *Definitions.* As used in this clause:

- (1) "Computer data base" means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.
- (2) "Computer program" means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.
- (3) "Computer software" means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.
- (4) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.
- (5) "Detailed manufacturing or process data" means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.
- (6) "Developed" means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.
- (7) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.
  - (i) Private expense determinations should be made at the lowest practicable level.
  - (ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.
- (8) "Developed exclusively with government funds" means development was not accomplished exclusively or partially at private expense.
- (9) "Developed with mixed funding" means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.
- (10) "Form, fit, and function data" means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.
- (11) "Government purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.
- (12) "Government purpose rights" means the rights to-
  - (i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and
  - (ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.
- (13) "Limited rights" means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in



whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release or disclose such data or authorize the use or reproduction of the data by persons outside the Government if reproduction, release, disclosure, or use is -

- (i) Necessary for emergency repair and overhaul; or
- (ii) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;
- (iii) Subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and
- (iv) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.

(14) "Technical data" means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(15) "Unlimited rights" means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) *Rights in technical data.* The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in technical data other than computer software documentation (see the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights. The Government shall have unlimited rights in technical data that are -

- (i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;
- (ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;
- (iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;
- (iv) Form, fit, and function data;
- (v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);
- (vi) Corrections or changes to technical data furnished to the Contractor by the Government;
- (vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;
- (viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or
- (ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with-
  - (A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or
  - (B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

- (i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data-
  - (A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs (b)(ii) and (b)(iv) through (b)(ix) of this clause; or
  - (B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.
- (ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government

shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless-

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data-

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights. However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(4) Specifically negotiated license rights. The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in paragraph (a)(13) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless-

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(13) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) *Contractor rights in technical data.* All rights not granted to the Government are retained by the Contractor.

(d) *Third party copyrighted data.* The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) *Identification and delivery of data to be furnished with restrictions on use, release, or disclosure.*

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor:

Identification and Assertion of Restrictions on the Government's Use, Release,  
or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted-

Technical Data			Name of Person
to be Furnished	Basis for	Asserted Rights	Asserting
With Restrictions*	Assertion**	Category***	Restrictions****
(LIST)	(LIST)	(LIST)	(LIST)

\*If the assertion is applicable to items, components, or processes developed at private expense, identify both the data and each such item, component, or process.

\*\*Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\*\*\*Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

\*\*\*\*Corporation, individual, or other person, as appropriate.

Date

Printed Name and Title

Signature

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) *Marking requirements.* The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.  
Contractor Name  
Contractor Address

#### Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data-Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

#### LIMITED RIGHTS

Contract No.  
Contractor Name  
Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data-Noncommercial Items clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

#### SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. \_\_\_\_ (Insert contract number) \_\_\_\_, License No. \_\_\_\_ (Insert license identifier) \_\_\_\_. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) *Contractor procedures and records*. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data with other than unlimited rights, shall-

- (1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and
- (2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) *Removal of unjustified and nonconforming markings*.

(1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) *Relation to patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) *Limitation on charges for rights in technical data.*

(1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when-

- (i) The Government has acquired, by any means, the same or greater rights in the data; or
- (ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause-

- (i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and
- (ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) *Applicability to subcontractors or suppliers.*

(1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers.

(5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligation to the Government.

#### **RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION (JUN 1995) (DFARS 252.227-7014 (Alt I))**

(a) Definitions. As used in this clause:

(1) "Commercial computer software" means software developed or regularly used for non-governmental purposes which-

- (i) Has been sold, leased, or licensed to the public;
- (ii) Has been offered for sale, lease, or license to the public;
- (iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or
- (iv) Satisfies a criterion expressed in paragraph (a)(1)(i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) "Computer database" means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) "Computer program" means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(4) "Computer software" means computer programs, source code, source code listings, object

code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) "Computer software documentation" means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) "Developed" means that-

- (i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;
- (ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or
- (iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(7) "Developed exclusively at private expense" means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

- (i) Private expense determinations should be made at the lowest practicable level.
- (ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) "Developed exclusively with government funds" means development was not accomplished exclusively or partially at private expense.

(9) "Developed with mixed funding" means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) "Government purpose" means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(11) "Government purpose rights" means the rights to-

- (i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and
- (ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(12) "Minor modification" means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(13) "Noncommercial computer software" means software that does not qualify as commercial computer software under paragraph (a)(1) of this clause.

(14) "Restricted rights" apply only to noncommercial computer software and mean the Government's rights to-

- (i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;
- (ii) Transfer a computer program to another Government agency without the further

permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may-

(A) Use the modified software only as provided in paragraphs (a)(14)(i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(14)(ii), (v) and (vi) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that-

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitation in paragraph (a)(14)(i) of this clause; and

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that-

(A) The intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends; and

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose.

(15) "Unlimited rights" means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in noncommercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in-

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

- (iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;
  - (iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;
  - (v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or
  - (vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with-
    - (A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or
    - (B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for commercial purposes has expired.
- (2) Government purpose rights.
- (i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software developed with mixed funding.
  - (ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.
  - (iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless-
    - (A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7; or
    - (B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.
- (3) Restricted rights.
- (i) The Government shall have restricted rights in noncommercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.
  - (ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in noncommercial computer software delivered or otherwise provided to the Government with restricted rights. However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All noncommercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.
- (4) Specifically negotiated license rights.
- (i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in



paragraph (a)(14) of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(13) of the Rights in Technical Data--Noncommercial Items clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless-

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such-

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure.

(1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor:

#### Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

Computer Software to be Furnished With Restrictions*	Basis for Assertion**	Asserted Rights Category***	Name of Person Asserting Restrictions****
List	List	List	List

\*Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

\*\*Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\*\*\*Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights from a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

\*\*\*\*Corporation, individual, or other person, as appropriate.

Date

Printed Name and Title

Signature

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions-Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmittal document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in

software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

#### GOVERNMENT PURPOSE RIGHTS

Contract No.

Contractor Name

Contractor Address

Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

#### RESTRICTED RIGHTS

Contract No.

Contractor Name

Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings.

(i) Computer software or computer software documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

## SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. \_\_\_\_ (Insert contract number) \_\_\_\_, License No. \_\_\_\_ (Insert license identifier) \_\_\_\_\_. Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

- (ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).
- (5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.
- (g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall-
  - (1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and
  - (2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer software documentation delivered under this contract.
- (h) Removal of unjustified and nonconforming markings.
  - (1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions--Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.
  - (2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions--Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.
- (i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.
- (j) Limitation on charges for rights in computer software or computer software documentation.
  - (1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when-
    - (i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or

- (ii) The software or documentation are available to the public without restrictions.
- (2) The limitation in paragraph (j)(1) of this clause-
  - (i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and
  - (ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the software or documentation will be delivered.
- (k) Applicability to subcontractors or suppliers.
  - (1) Whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.
  - (2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.
  - (3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.
  - (4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

#### **ALTERNATE I (JUN 1995)**

As prescribed in 227.7203-6(a)(2), add the following paragraph (l) to the basic clause:

- (l) Publication for sale.
  - (1) This paragraph only applies to computer software or computer software documentation in which the Government has obtained unlimited rights or a license to make an unrestricted release of the software or documentation.
  - (2) The Government shall not publish a deliverable item or items of computer software or computer software documentation identified in this contract as being subject to paragraph (l) of this clause or authorize others to publish such software or documentation on its behalf if, prior to publication for sale by the Government and within twenty-four (24) months following the date specified in this contract for delivery of such software or documentation, or the removal of any national security or export control restrictions, whichever is later, the Contractor publishes that item or items for sale and promptly notifies the Contracting Officer of such publication(s). Any such publication shall include a notice identifying the number of this contract and the Government's rights in the published software or documentation.
  - (3) This limitation on the Government's right to publish for sale shall continue as long as the software or documentation are reasonably available to the public for purchase.

#### **SECTION "J" - LIST OF ATTACHMENTS**

##### **Exhibit "A" - Contract Data Requirements List (CDRL):**

<u>Description</u>	<u>Date</u>	<u>No. of Pages</u>
CDRL A001 Contractor's Progress, Status and Management Report	7 Jan 04	1
CDRL A002 Technical Report Study/Services	7 Jan 04	1

CDRL A003 Product Drawings and Associated Lists	7 Jan 04	1
CDRL A004 Status of Government Furnished Equipment Report	7 Jan 04	1
<b><u>Exhibit “B”</u></b> DD 254 (Contract Security Classification Specification)	15 Jan 04	2

**SECTION "K" - REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF OFFERORS****I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) PROVISIONS****II. DEFENSE FAR SUPPLEMENT (DFARS) (48 CFR CHAPTER 2) PROVISIONS**

<b>PART I</b>		
<u>FAR Subsection</u>	<u>Title</u>	<u>Date</u>
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions	Apr 1991
<b>PART II</b>		
<u>DFARS Subsection</u>		
252.209-7002	Disclosure of Ownership or Control by a Foreign Government	Sep 1994

**PROVISIONS IN FULL TEXT****TAXPAYER IDENTIFICATION (OCT 1998) (FAR 52.204-3)***(a) Definitions.*

"Common parent," as used in this solicitation provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this solicitation provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

*(d) Taxpayer Identification Number (TIN).*

( ) TIN: \_\_\_\_\_.

( ) TIN has been applied for.

( ) TIN is not required because:

( ) Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal paying agent in the U.S.;

( ) Offeror is an agency or instrumentality of a foreign government;

( ) Offeror is an agency or instrumentality of the Federal Government.

*(e) Type of organization.*

( ) Sole proprietorship;

( ) Partnership;

( ) Corporate entity (not tax-exempt);

( ) Corporate entity (tax-exempt);

( ) Government entity (Federal, State, or local);;

( ) Foreign government;

( ) International organization per 26 CFR 1.6049-4;

( ) Other \_\_\_\_\_.

*(f) Common Parent.*

( ) Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

( ) Name and TIN of common parent:: Name

TIN

**WOMEN-OWNED BUSINESS [OTHER THAN SMALL BUSINESS (MAY 1999) (FAR 52.204-5)]**

(a) *[Definition.* Women-owned business concern, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of its stock is owned by one or more women; and whose management and daily business operations are controlled by one or more women.]

(b) *[Representation.* [Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, Small Business Program Representation, of this solicitation.] The offeror represents that it [ ] is, [ ] is not a women-owned business concern.]

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (DEC 2001)(FAR 52.209-5)**

(a)

(1) The Offeror certifies, to the best of its knowledge and belief, that --

(i) The Offeror and/or any of its Principals --

(A) Are \_\_\_ are not \_\_\_ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have \_\_\_ have not \_\_\_, within the three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property;

(C) Are \_\_\_ are not \_\_\_ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision; and

(ii)

(A) The offeror, aside from the offenses enumerated in paragraphs (a)(1)(i)(A), (B), and (C) of this provision, has \_\_\_ has not \_\_\_ within the past three-years, relative to tax, labor and employment, environmental, antitrust, or consumer protection laws -

(1) Been convicted of a Federal or State felony (or has any Federal or State felony indictments currently pending against them); or

(2) Had a Federal court judgment in a civil case brought by the United States rendered against them; or

(3) Had an adverse decision by a Federal administrative law judge, board, or commission indicating a willful violation of law.

(B) If the offeror has responded affirmatively, the offeror shall provide additional information if requested by the Contracting Officer; and

(iii) The Offeror has \_\_\_ has not \_\_\_, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the



Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.  
(End of Provision)

**PLACE OF PERFORMANCE (OCT 1997) (FAR 52.215-06)**

(a) The offeror or respondent, in the performance of any contract resulting from this solicitation, ( ) intends, ( ) does not intend (check applicable block) to use one or more plants or facilities located at a different address from the address of the offeror or respondent as indicated in this proposal or response to request for information.

(b) If the offeror or respondent checks "intends" in paragraph (a) of this provision, it shall insert in the spaces provided the required information:

Place of Performance (Street, Address  
City, County, State, Zip Code)

Name and Address of Owner and Operator of the Plant or  
Facility if Other Than Offeror or Respondent

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**SMALL BUSINESS PROGRAM REPRESENTATIONS (FAR 52.219-1) (APR 2002) ALT I (APR 2002)**

(a)

- (1) The North American Industry Classification System (NAICS) code for this acquisition is 541330.
- (2) The small business size standard is 500.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.*

- (1) The offeror represents as part of its offer that it \* is, \* is not a small business concern.
- (2) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents, for general statistical purposes, that it \* is, \* is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.
- (3) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it \* is, \* is not a women-owned small business concern.
- (4) (Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.) The offeror represents as part of its offer that it \* is, \* is not a veteran-owned small business concern.
- (5) (Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.) The offeror represents as part of its offer that it \* is, \* is not a service-disabled veteran-owned small business concern.

(c) *Definitions.* As used in this provision--

*"Service-disabled veteran-owned small business concern"--*

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

*"Small business concern,"* means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

*"Veteran-owned small business concern"* means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

*"Women-owned small business concern,"* means a small business concern --

(1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) *Notice.*

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall --
- (i) Be punished by imposition of fine, imprisonment, or both;
  - (ii) Be subject to administrative remedies, including suspension and debarment; and
  - (iii) Be ineligible for participation in programs conducted under the authority of the Act.
- (End of Provision)

*Alternate I (Oct 2000).* As prescribed in 19.307(a)(2), add the following paragraph (b)(6) to the basic provision:

- (6) *[Complete only if offeror represented itself as small business concern in paragraph (b)(1) of this provision].* The offeror represents, as part of its offer, that--
- (i) It \_\_\_ is, \_\_\_ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR Part 126; and
  - (ii) It \_\_\_ is, \_\_\_ is not a joint venture that complies with the requirements of 13 CFR Part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture: \_\_\_\_\_.]* Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

**CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (FEB 2001)(FAR 52.222-18)**

(a) Definition. Forced or indentured child labor means all work or service--

- (1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or
- (2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) Listed end products. The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed endproducts from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product:	Listed Countries of Origin:

(c) Certification. The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

- ☐ (1) The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.
- ☐ (2) The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that is has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not award of any such use of child labor.

(End of provision)

**PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999) (FAR 52.222-22)**

The offeror represents that--

- (a) It (\_\_\_) has, (\_\_\_) has not participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation,

(b) It ( ) has, ( ) has not, filed all required compliance reports; and

Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**AFFIRMATIVE ACTION COMPLIANCE (APR 1984) (FAR 52.222-25)**

The offeror represents that (a) it ( ) has developed and has on file, ( ) has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) it ( ) has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor, provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of subparagraph (b)(1) through (11) of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the Contracting Officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance, provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

**CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (AUG 2003) (FAR 52.223-13)**

(a) Submission of this certification is a prerequisite for making or entering into this contract imposed by Executive Order 12969, August 8, 1995.

(b) By signing this offer, the offeror certifies that --

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: *[Check each block that is applicable.]*

- \* (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed under section 313(c) of EPCRA, 42 U.S.C. 11023(c);
- \* (ii) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);
- \* (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);
- \* (iv) The facility does not fall within Standard Industrial Classification Code (SIC) major groups 20 through 39 or their corresponding North American Industry Classification System (NAICS) sectors 31 through 33; or
- \* (v) The facility is not located within any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Northern Mariana Islands, or any other territory or possession over which the United States has jurisdiction.

**DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998) (DFARS 252.209-7001)**

(a) *Definitions.*

As used in this provision --

- (1) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.
- (2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include: Cuba, Iran, Iraq, Libya,

North Korea, Sudan, and Syria.

(3) "Significant interest" means --

- (i) Ownership of or beneficial interest in five percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding five percent or more of any class of the firm's securities in "nominee shares", "street names," or some other method of holding securities that does not disclose the beneficial owner;
- (ii) Holding a management position in the firm such as director or officer;
- (iii) Ability to control or influence the election, appointment, or tenure of directors or officers of the firm;
- (iv) Ownership of ten percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or
- (v) Holding fifty percent or more of the indebtedness of a firm.

(b) *Prohibition on award.*

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) *Disclosure.*

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include--

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each government.

#### **REPRESENTATION OF EXTENT OF OCEAN TRANSPORTATION BY SEA (AUG 1992) (DFARS 252.247-7022)**

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term "supplies" is defined in the Transportation of Supplies by Sea clause of the solicitation.

(b) Representation.

The Offeror represents that it--

☐ Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

☐ Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

## SECTION "L" - INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

Offerors are reminded to list your Commercial and Government Entity (CAGE) Code and DUNS Number in Block 15a of Page 1.

It is requested that technical questions concerning this procurement be submitted, **in writing**, to arrive at NAVSURFWARCEMDIV Crane not later than 2:00 PM EST on the seventh calendar day preceding the date shown in item 9 on page 1 addressed as follows:

Contracting Officer; Crane Division, Naval Surface Warfare Center; Attn: MS FLO MARTIN, Code 116 5ZF, Bldg. 3168, 300 Highway 361; Crane, IN 47522-5011

**SPECIAL NOTICE** - The Director, Defense Procurement has revised DFARS to require contractors to be registered in the Central Contractor Registration (CCR) as a condition for receipt of contract award effective 1 June 1998. Offerors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423, or via the Internet at [www.ccr.dlsc.dla.mil](http://www.ccr.dlsc.dla.mil). For further details regarding the requirements of CCR, offerors are advised to review the requirements of DFAR 252.204-7004 contained herein.

The mission at NAVSEA Crane is to provide quality and responsive acquisition services for this Command. In an effort to continue to improve our services, NAVSEA Crane is conducting a survey of our vendors. This survey may be found on the World Wide Web at the following address: <http://www.crane.navy.mil/supply/VendorSurvey.htm>. Your comments will help us determine if we are accomplishing this and show us ways to improve our processes. Please consider taking the time to complete the survey.

<b>PART I</b>		
<u>FAR Subsection</u>	<u>Title</u>	<u>Date</u>
52.204-06	Data Universal Numbering System (DUNS) Number	Oct 2003
52.211-15	Defense Priority and Allocation Requirements	Sep 1990
52.215-01	Instructions to Offerors-Competitive Acquisition	Jan 2004
52.215-05	Facsimile Proposals	Oct 1997
52.215-16	Facilities Capital Cost of Money	Jun 2003
52.222-46	Evaluation of Compensation for Professional Employees	Feb 1993
<b>PART II</b>		
<u>DFARS Subsection</u>	<u>Title</u>	<u>Date</u>
252.204-7001	Commercial and Government Entity (CAGE) Code Reporting	Aug 1999
252.227-7017	Identification and Assertion of Use, Release or Disclosure Restrictions	Jun 1995
252.227-7028	Technical Data or Computer Software Previously Delivered to the Government	Jun 1995

### PROVISIONS IN FULL TEXT

#### **NOTICE OF PRIORITY RATING FOR NATIONAL DEFENSE USE (SEP 1990) (FAR 52.211-14)**

Any contract awarded as a result of this solicitation will be (    ) DX rated order; (   X   ) DO rated order certified for national defense use under the Defense Priorities and Allocations System (DPAS) (15 CFR 700), and the Contractor will be required to follow all of the requirements of this regulation.

#### **REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997) (FAR 52.215-20)**

(a) *Exceptions from cost or pricing data.*

(1) In lieu of submitting cost or pricing data, offerors may submit a written request for exception by submitting the

information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable.

(i) *Identification of the law or regulation establishing the price offered.* If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) *Commercial item exception.* For a commercial item exception, the offeror shall submit, at a minimum, information on prices at which the same item or similar items have previously been sold in the commercial market that is adequate for evaluating the reasonableness of the price for this acquisition. Such information may include--

(A) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(B) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(C) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this provision, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the offeror's determination of the prices to be offered in the catalog or marketplace.

(b) *Requirements for cost or pricing data.* If the offeror is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The offeror shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(2) As soon as practicable after agreement on price, but before contract award (except for unpriced actions), the offeror shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

Alternate I (Oct 1997). As prescribed in 15.408(l), substitute the following paragraph (b)(1) for paragraph (b)(1) of the basic provision.

(b)(1) The offeror shall submit cost or pricing data and supporting attachments in the following format:

#### **TYPE OF CONTRACT (APR 1984) (FAR 52.216-1)**

The Government contemplates award of a Cost-Plus-Fixed-Fee, Indefinite-Delivery Indefinite-Quantity contract resulting from this solicitation.

#### **PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999) (52.222-24)**

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.]

#### **SERVICE OF PROTEST (AUG 1996) (FAR 52.233-2)**

(a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO) shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from COMMANDER, MS. MARY SHEETZ, CODE 1165, BLDG 3291, NAVSURFWARCEMDIV, 300 HWY 361, CRANE, IN 47522-5011.

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

#### **SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998) (FAR 52.252-1)**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or

offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es): <http://www.arnet.gov/far>

#### **AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984) (FAR 52.252-5)**

- (a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.
- (b) The use in this solicitation of any Defense Federal Acquisition Regulation Supplement (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

#### **SUBSTITUTION OF PREVIOUSLY APPROVED SINGLE PROCESS INITIATIVE (NAVSEA) (MAY 1998) (6401)**

Your proposal shall identify where you are substituting your previously approved Single Process Initiative (SPI) processes for specified requirements. In addition, offerors shall provide the information required by DFARS 252.211-7005, paragraph (c).

#### **FACILITY SECURITY CLEARANCE (NAVSEA) (SEP 1990) (6402)**

- (a) No award will be made to any offeror which does not possess a facility security clearance issued by the Defense Investigative Service at the level **specified in the DD 254 attached hereto**. Naval Surface Warfare Center, Crane Division will initiate appropriate security clearance action for any apparent successful offeror which does not already possess such clearance. The Government is not obligated to delay award pending security clearance of any offeror.
- (b) The security classification of this procurement is specified in the Contract Security Classification Specification, DD Form 254, attached hereto.

#### **MAKE-OR-BUY PROGRAM (NAVSEA) (SEP 1990) (6403)**

Offeror shall submit as part of its proposal a written proposed make-or-buy program in accordance with the requirements set forth herein.

- (a) Definition of Make-or-Buy Program: A make-or-buy program is that part of each offeror's written plan which identifies the major work efforts, sub-systems, assemblies, subassemblies, and components to be manufactured, developed, or assembled in its own facilities, and those which will be obtained elsewhere by subcontract. The program shall not include raw materials, commercial products or off-the-shelf items unless their potential impact on contract or schedule is critical. A "make" item is any item produced, or work performed, by the offeror or its affiliates, subsidiaries, or divisions. A "buy" item is any item or work effort which will be obtained elsewhere by subcontract.
- (b) Requirements of Make-or-Buy Program under this Solicitation. For purposes of this solicitation, the make-or-buy program should not include items or work efforts estimated to cost less than (a) 1% of the total estimated contract price, or (b) \$1,000,000, whichever is less.
- (c) Factors to be Considered by Offeror in the Formulation of Its Make-or-Buy Program. Offeror shall consider such factors as capability, capacity, availability of small business and labor surplus area concerns as subcontract sources, the establishment of new facilities in or near sections of concentrated unemployment or underemployment, contract schedules, integration control, proprietary processes, and technical superiority or exclusiveness, before identifying in its proposed make-or-buy program that work which it considers it or its affiliates, subsidiaries, or divisions (i) must perform as "must make", (ii) must subcontract as "must buy", and (iii) can either perform or acquire by subcontract as "can make or buy".
- (d) Information Required in Offeror's Make-or-Buy Program. Offeror shall include in its proposed make-or-buy program:
  - (1) A description of each major item or work effort.
  - (2) Categorization of each major item or work effort as "must make", "must buy", or "can either make or buy".
  - (3) For each item or work effort categorized as "can either make or buy", a proposal either to "make" or to "buy".
  - (4) Reasons for (i) categorizing items and work efforts as "must make" or "must buy", and (ii) proposing to "make" or to "buy" those categorized as "can either make or buy". The reasons must include the consideration given to the evaluation factors described in the solicitation and be in sufficient detail to permit the Contracting Officer to evaluate the categorization or proposal.
  - (5) Designation of the plant or division proposed to make each item or perform each work effort and a statement as to whether the existing or proposed new facility is in or near a labor surplus area.
  - (6) Identification of proposed subcontractors, if known, and their location and size status.
  - (7) Any recommendations to defer make-or-buy decisions when categorization of some items or work efforts is impracticable at the time of submission.
  - (8) Any other information the Contracting Officer requires in order to evaluate the program.

#### **NOTIFICATION OF POTENTIAL ORGANIZATIONAL CONFLICT(S) OF INTEREST (NAVSEA) (JUN 1994) (6404)**

- (a) Offerors are reminded that certain existing contractual arrangements may preclude, restrict or limit participation, in whole or in part, as either a subcontractor or as a prime contractor under this competitive procurement. Of primary concern are those contractual arrangements in which the Offeror provides support to , or related laboratories (if applicable), in support of operation of the office or any of its programs. General guidance may be found in FAR 9.505; however, this guidance is not all inclusive. The Offeror's attention is directed to the "Organizational Conflict of Interest" (or similar) requirement which may be contained in current or completed contract(s) which prohibits the prime or subcontractor from providing certain supplies or services to the Government as described above during the period of the current "support" contract(s) or for a period after completion of the "support" contract(s). Notwithstanding the existence or non-existence of an Organizational Conflict of Interest (OCI) clause or similar requirement in current or completed contract(s), the offeror shall comply with FAR 9.5 and identify whether an OCI exists and not rely solely on the presence of an OCI requirement.
- (b) If a potential conflict of interest exists at any tier, each potential prime offeror is requested to notify the Contracting Officer within 14 days of the date of this solicitation. The Offeror shall provide: (1) the contract number and name and phone number of the Contracting Officer for the contract which gives rise to a potential organizational conflict of interest; (2) a copy of the requirement; (3) the statement of work (or technical instruction) from the existing contract; (4) a brief description of the type of work to be performed by each subcontractor under the competitive procurement; and (5) any additional information the Contracting Officer should consider in making a determination of whether a conflict of interest exists. The Government may independently verify the information received from the offeror. Notwithstanding the above, the Government reserves the right to determine whether a conflict of interest exists based on any information received from any source.
- (c) The Government will notify an offeror of any conflict of interest within 14 days of receipt of all required information. Those offerors deemed to have a conflict of interest may be ineligible for award. Failure to provide the information in a timely manner does not waive the Government's rights to make a conflict of interest determination. The offeror is notified that if it expends time and money on proposal preparation, such expenditure is at its own risk that the Government will not determine that an organizational conflict of interest exists.
- (d) Any potential prime contractor which proposes a subcontractor later determined to have a conflict of interest and deemed ineligible to participate in the current competition, may not be granted the opportunity to revise its proposal to remove the ineligible subcontractor. The Government reserves the right to determine which offerors remain in the competitive range through the normal source selection process.
- (e) If the offeror determines that a potential organizational conflict of interest does not exist at any tier, the offeror shall include a statement to that effect in its response to this solicitation.

#### **REQUIREMENTS CONCERNING WORK WEEK (MAY 1993) (6405)**

- (a) Uncompensated effort is defined as hours provided by personnel in excess of 40 hours per week without additional compensation for such excess work.
- (b) The offeror may include uncompensated effort in its proposed level of effort if:
- (1) The offeror has an established cost accounting system, approved by the Defense Contract Audit Agency, which records all hours worked, including uncompensated hours, for all employees, and regardless of contract type.
  - (2) Uncompensated hours, for all employees and regardless of contract type, are included in the offeror's base for allocation of overhead costs.
  - (3) The proposal identifies hours of uncompensated effort proposed by labor category.
  - (4) The proposal identifies the amount of uncompensated effort which will be performed without supervision and without support personnel and assesses the productivity of such effort.
  - (5) The proposal describes the extent to which employees are required or encouraged to perform uncompensated effort and the impact the use of uncompensated effort has on work effectiveness.
  - (6) The proposal includes a copy of the corporate policy addressing uncompensated effort.
- (c) The above information must be provided for each subcontract which has uncompensated effort included in the proposed level of effort.
- (d) Any proposal which includes uncompensated effort in the proposed level of effort not in compliance with the above may be rejected.

#### **BLANKET EXEMPTION CERTIFICATE (6411)**

In accordance with the provisions of Section 39(a) and Section 6 of the Indiana Gross Income Tax Act of 1933, Crane Division, Naval Surface Warfare Center, Crane, Indiana, is specifically exempt as a Government activity from any payment of sales and use tax has been assigned Exemption Certificate Number 0018103400015.



**BUSINESS HOURS (6412)**

Crane Division, Naval Surface Warfare Center, Crane, Indiana, allows flexible working hours for its employees. The normal eight-hour shift may be worked between the hours of 6:30 AM and 5:30 PM EST. Many of our employees work 6:30 AM to 3:00 PM as a regular practice. The core time, when all employees are scheduled to work, is 9:00 AM to 3:00 PM.

**WORLD WIDE WEB SOLICITATION INFORMATION (6418)**

Some solicitations available posted on the WWW site may not include all documents of the solicitation package. Drawings and Contract Data Requirement Lists (CDRLs) are examples of documents that may not be included due to technical issues. Under those circumstances, a notice will be provided with each solicitation package listing documents not available on WWW. Hard copies of the documents may be obtained by contacting the solicitation Point of Contact (POC) listed in the solicitation document.

Any amendments to the subject solicitation will be posted to the NSWC Crane Division WWW Page (<http://www.crane.navy.mil/supply/solicit.htm>) beneath the applicable solicitation. The complete solicitation package, including all amendments, should be received and reviewed prior to submitting a response. It is the responsibility of the offeror to obtain all amendments and/or other applicable documents prior to submission of the offer. Under these circumstances, offerors are reminded to include acknowledgement of acceptance of these amendments in their offer.

**ALTERNATE PROPOSALS (6408)**

Offers may submit more than one proposal, each of which must satisfy the mandatory requirements of the solicitation, including any Benchmark Tests, in order to be considered. As a minimum, one of the proposals submitted must be complete. The alternate proposal(s) may be in an abbreviated form following the same section format, but providing only those sections which differ in any way from those contained in the original proposal. Each proposal will include cost tables indicating the complete range of pricing options. In the case of price/cost options for a given configuration, an alternate proposal will not be required. If alternate proposals are submitted, such alternatives will be clearly labeled and identified on the cover page of each separate document. The reason for each alternate and its comparative benefits shall be explained. Each proposal submitted will be evaluated on its own merits.

**PROPOSAL REQUIREMENTS (6409)**

- (a) The technical proposal and the cost/price proposal shall be submitted in separate volumes. The technical proposal shall not contain any cost/pricing information, except for salary information provided on resumes.
- (b) The offeror shall submit the following information:
  - (1) 2 completed signed solicitation packages, with all representations and certifications executed, and with cost/prices in Section B.
  - (2) 4 copies of the technical proposal.
  - (3) 2 copies of the cost/price proposal.
- (c) Technical Proposal. Each technical proposal shall enable Government evaluating personnel to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet the requirements of the government. To this end, each technical proposal shall be so specific, detailed and complete as to clearly and fully demonstrate that the prospective contractor has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the specifications or attest that "standard procedures will be employed," are inadequate to demonstrate how it is proposed to comply with the requirements of the specifications, and this clause. As a minimum, the proposal must clearly provide the following

ANY EXCEPTION TO THE GOVERNMENT'S TECHNICAL REQUIREMENTS/SPECIFICATIONS MUST BE INCLUDED IN THE TECHNICAL PROPOSAL AND A COVER LETTER TO THE TECHNICAL PROPOSAL.

- (d) Cost/Price Proposal. The following cost/price information is required (in addition to any other requirement for cost/price information in Section "B"):

Offerors cost proposals shall be structured as follows, IAW offerors standard accounting practices. The estimated start date of the contract for proposal purposes is 1 October 2004. Offerors shall utilize this start date in proposing composite labor and indirect rates by contract year. Offerors shall propose on the following level of effort for each of the five years, as shown. The proposal for each of the five

years shall show a complete breakdown of labor categories, direct labor rates, extended labor amounts, fringe and any overhead rates and amounts, by year, Other Direct Costs to include Material Costs as set forth by the Government below, and travel costs, calculated by the contractor based on the travel set forth in the Statement of work in Section (C).

(e) Exceptions. Offerors are not encouraged to take exceptions to this solicitation, however, any exceptions taken to the specifications, terms and conditions of this solicitation shall be explained in detail and set forth in a cover letter as well as in this section of the Cost Proposal. Offerors are to detail the particular section, clause paragraph and page to which they are taking exception.

## **CONTRACT YEAR 1**

### **Level-of-Effort**

<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>	<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>
Scientist	248			Draftsman	600		
Sr Engineer	1824			Draftsman II	100		
Engineer	6538			Admin Asst	106		
Engineer II	1038			Sr Prgrm Anlyst	1400		
Sr Engineer Tech	596			Prgrm Anlyst	10226		
Sr Engineer Tech (OT)	100						
Engineer Tech I	24274			Prgrm Anlyst II	1745		
Engineer Tech I (OT)	100						
Engineer Tech II	5607			Prgrm Anlyst III	1827		
Engineer Tech II (OT)	1,618						
Engineer Tech III	8478			Prgrm Mgr	1834		
Engineer Tech III (OT)	100						
Engineer Tech IV	6854			Prgrm Mgr II	3949		
Engineer Tech V	3083			Travel Clerk	113		
Electronic Tech I	200			Travel Clerk II	20		
Electronic Tech I (OT)	100						
Electronic Tech II	565			Travel Clerk III	48		
Electronic Tech II (OT)	100						
Electronic Tech III	10199			Laborer	2716		
Electronic Tech III	100			Laborer (OT)	100		
Production Mgr	54			Welder	300		
				Welder (OT)	165		

Total Direct Labor Cost Year 1	\$
Fringe Benefit Rate and amount (if applicable)	\$
Overhead Rate and amount	\$
Total Labor and Associated Costs	\$ _____.
 <u>Other Direct Costs</u>	
Material Costs	\$390,836
Travel Costs	\$
Other Offeror ODCs	\$
Total ODCs	\$
G&A Rate and Amount	\$
Total Cost including G&A	\$
Cost of Money (if applicable)	
Fee	
Total Cost plus Fixed Fee Year 1	\$

**Proposed Applicable Labor Overhead Rates:**

Proposed Contractor Site Rate: \_\_\_\_\_  
 Proposed Contractor Base to which rate is applied: \_\_\_\_\_  
 Other: \_\_\_\_\_ Proposed Base: \_\_\_\_\_

Nomenclature (e.g. G&A, Cost of Money)

\_\_\_\_\_  
 \_\_\_\_\_

Proposed Base Indirect Rates are applied to (e.g. total labor dollars, total costs)

\_\_\_\_\_  
 \_\_\_\_\_

**CONTRACT YEAR 2****Level-of-Effort**

<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>	<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>
Scientist	248			Draftsman	600		
Sr Engineer	1824			Draftsman II	100		
Engineer	6538			Admin Asst	106		
Engineer II	1038			Sr Prgrm Anlyst	1400		
Sr Engineer Tech	596			Prgrm Anlyst	10226		
Sr Engineer Tech (OT)	100						
Engineer Tech I	24274			Prgrm Anlyst II	1745		
Engineer Tech I (OT)	100						
Engineer Tech II	5607			Prgrm Anlyst III	1827		
Engineer Tech II (OT)	1,618						
Engineer Tech III	8478			Prgrm Mgr	1834		
Engineer Tech III (OT)	100						
Engineer Tech IV	6854			Prgrm Mgr II	3949		
Engineer Tech V	3083			Travel Clerk	113		
Electronic Tech I	200			Travel Clerk II	20		
Electronic Tech I (OT)	100						
Electronic Tech II	565			Travel Clerk III	48		
Electronic Tech II (OT)	100						
Electronic Tech III	10199			Laborer	2716		
Electronic Tech III	100			Laborer (OT)	100		
Production Mgr	54			Welder	300		
				Welder (OT)	165		

Total Direct Labor Cost Year 2	\$
Fringe Benefit Rate and amount (if applicable)	\$
Overhead Rate and amount	\$
Total Labor and Associated Costs	\$_____.
<u>Other Direct Costs</u>	
Material Costs	\$390,836
Travel Costs	\$
Other Offeror ODCs	\$
Total ODCs	\$
G&A Rate and Amount	\$
Total Cost including G&A	\$
Cost of Money (if applicable)	
Fee	
Total Cost plus Fixed Fee Year 2	\$

**Proposed Applicable Labor Overhead Rates:**

Proposed Contractor Site Rate: \_\_\_\_\_  
 Proposed Contractor Base to which rate is applied: \_\_\_\_\_  
 Other: \_\_\_\_\_ Proposed Base: \_\_\_\_\_

Nomenclature (e.g. G&A, Cost of Money)

\_\_\_\_\_  
 \_\_\_\_\_

Proposed Base Indirect Rates are applied to (e.g. total labor dollars, total cots)

\_\_\_\_\_  
 \_\_\_\_\_

**CONTRACT YEAR 3****Level-of-Effort**

<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>	<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>
Scientist	248			Draftsman	600		
Sr Engineer	1824			Draftsman II	100		
Engineer	6538			Admin Asst	106		
Engineer II	1038			Sr Prgrm Anlyst	1400		
Sr Engineer Tech	596			Prgrm Anlyst	10226		
Sr Engineer Tech (OT)	100						
Engineer Tech I	24274			Prgrm Anlyst II	1745		
Engineer Tech I (OT)	100						
Engineer Tech II	5607			Prgrm Anlyst III	1827		
Engineer Tech II (OT)	1,618						
Engineer Tech III	8478			Prgrm Mgr	1834		
Engineer Tech III (OT)	100						
Engineer Tech IV	6854			Prgrm Mgr II	3949		
Engineer Tech V	3083			Travel Clerk	113		
Electronic Tech I	200			Travel Clerk II	20		
Electronic Tech I (OT)	100						
Electronic Tech II	565			Travel Clerk III	48		
Electronic Tech II (OT)	100						
Electronic Tech III	10199			Laborer	2716		
Electronic Tech III	100			Laborer (OT)	100		
Production Mgr	54			Welder	300		
				Welder (OT)	165		

Total Direct Labor Cost Year 3	\$
Fringe Benefit Rate and amount (if applicable)	\$
Overhead Rate and amount	\$
Total Labor and Associated Costs	\$ _____.
<u>Other Direct Costs</u>	
Material Costs	\$390,836
Travel Costs	\$
Other Offeror ODCs	\$
Total ODCs	\$
G&A Rate and Amount	\$
Total Cost including G&A	\$
Cost of Money (if applicable)	
Fee	
Total Cost plus Fixed Fee Year 3	\$

**Proposed Applicable Labor Overhead Rates:**

Proposed Contractor Site Rate: \_\_\_\_\_  
 Proposed Contractor Base to which rate is applied: \_\_\_\_\_  
 Other: \_\_\_\_\_ Proposed Base: \_\_\_\_\_

Nomenclature (e.g. G&A, Cost of Money)

\_\_\_\_\_  
 \_\_\_\_\_

Proposed Base Indirect Rates are applied to (e.g. total labor dollars, total costs)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**CONTRACT YEAR 4****Level-of-Effort**

<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>	<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>
Scientist	248			Draftsman	600		
Sr Engineer	1824			Draftsman II	100		
Engineer	6538			Admin Asst	106		
Engineer II	1038			Sr Prgrm Anlyst	1400		
Sr Engineer Tech	596			Prgrm Anlyst	10226		
Sr Engineer Tech (OT)	100						
Engineer Tech I	24274			Prgrm Anlyst II	1745		
Engineer Tech I (OT)	100						
Engineer Tech II	5607			Prgrm Anlyst III	1827		
Engineer Tech II (OT)	1,618						
Engineer Tech III	8478			Prgrm Mgr	1834		
Engineer Tech III (OT)	100						
Engineer Tech IV	6854			Prgrm Mgr II	3949		
Engineer Tech V	3083			Travel Clerk	113		
Electronic Tech I	200			Travel Clerk II	20		
Electronic Tech I (OT)	100						
Electronic Tech II	565			Travel Clerk III	48		
Electronic Tech II (OT)	100						
Electronic Tech III	10199			Laborer	2716		
Electronic Tech III	100			Laborer (OT)	100		
Production Mgr	54			Welder	300		
				Welder (OT)	165		



Total Direct Labor Cost Year 4	\$
Fringe Benefit Rate and amount (if applicable)	\$
Overhead Rate and amount	\$
Total Labor and Associated Costs	\$_____.
<u>Other Direct Costs</u>	
Material Costs	\$390,836
Travel Costs	\$
Other Offeror ODCs	\$
Total ODCs	\$
G&A Rate and Amount	\$
Total Cost including G&A	\$
Cost of Money (if applicable)	
Fee	
Total Cost plus Fixed Fee Year 4	\$

Proposed Contractor Base to which rate is applied: \_\_\_\_\_  
 Other: \_\_\_\_\_ Proposed Base: \_\_\_\_\_

Nomenclature (e.g. G&A, Cost of Money)

\_\_\_\_\_

\_\_\_\_\_

Proposed Base Indirect Rates are applied to (e.g. total labor dollars, total cots)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**CONTRACT YEAR 5****Level-of-Effort**

<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>	<b><u>Labor Category</u></b>	<b><u>Est Hrs</u></b>	<b><u>Proposed Rate</u></b>	<b><u>Amount</u></b>
Scientist	248			Draftsman	600		
Sr Engineer	1824			Draftsman II	100		
Engineer	6538			Admin Asst	106		
Engineer II	1038			Sr Prgrm Anlyst	1400		
Sr Engineer Tech	596			Prgrm Anlyst	10226		
Sr Engineer Tech (OT)	100						
Engineer Tech I	24274			Prgrm Anlyst II	1745		
Engineer Tech I (OT)	100						
Engineer Tech II	5607			Prgrm Anlyst III	1827		
Engineer Tech II (OT)	1,618						
Engineer Tech III	8478			Prgrm Mgr	1834		
Engineer Tech III (OT)	100						
Engineer Tech IV	6854			Prgrm Mgr II	3949		
Engineer Tech V	3083			Travel Clerk	113		
Electronic Tech I	200			Travel Clerk II	20		
Electronic Tech I (OT)	100						
Electronic Tech II	565			Travel Clerk III	48		
Electronic Tech II (OT)	100						
Electronic Tech III	10199			Laborer	2716		
Electronic Tech III	100			Laborer (OT)	100		
Production Mgr	54			Welder	300		
				Welder (OT)	165		

Total Direct Labor Cost Year 5	\$
Fringe Benefit Rate and amount (if applicable)	\$
Overhead Rate and amount	\$
Total Labor and Associated Costs	\$_____.
<u>Other Direct Costs</u>	
Material Costs	\$390,836
Travel Costs	\$
Other Offeror ODCs	\$
Total ODCs	\$
G&A Rate and Amount	\$
Total Cost including G&A	\$
Cost of Money (if applicable)	
Fee	
Total Cost plus Fixed Fee Year 5	\$

**Proposed Applicable Labor Overhead Rates:**

Proposed Contractor Site Rate: \_\_\_\_\_  
Proposed Contractor Base to which rate is applied: \_\_\_\_\_  
Other: \_\_\_\_\_ Proposed Base: \_\_\_\_\_

Nomenclature (e.g. G&A, Cost of Money)

\_\_\_\_\_  
\_\_\_\_\_

Proposed Base Indirect Rates are applied to (e.g. total labor dollars, total cots)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**CONTRACTOR PERFORMANCE DATA**

The offeror shall demonstrate past performance through completion of the "Contractor Performance Data Sheet". The Contractor Performance Data Sheet shall be completed in its entirety. *Failure to submit the completed Contractor Performance Data Sheet (along with the proposal) shall be considered certification (by signature on the proposal) that the contractor has no past performance for like or similar items for the Government to evaluate.*

**CONTRACTOR PERFORMANCE DATA SHEET**

NOTE: THE INFORMATION PROVIDED MAY BE USED TO EVALUATE THE OFFEROR'S PAST PERFORMANCE IN MEETING COSTS/PRICE, TECHNICAL, AND DELIVERY OBJECTIVES. POINTS OF CONTACT PROVIDED, MAY BE CONTACTED TO CONFIRM

INFORMATION PROVIDED AND TO GATHER INFORMATION ON TECHNICAL PERFORMANCE, COSTS/PRICE, QUALITY, AND RELIABILITY. THE RESULTS MAY BE USED IN THE OVERALL COMPARATIVE EVALUATION OF THE OFFEROR (S) IN ACCORDANCE WITH SECTION M OF THE REQUEST FOR PROPOSAL.

Please list performance data on a maximum of five contracts for like or similar items, either completed or ongoing, under which performance has taken place within the last three years. Contracts with the federal government are preferred, but you may also list contracts with state and local governments or contracts with commercial customers. In determining which contracts to submit, please refer to FAR 15.305(a)(2)(I), which states in pertinent part that “[p]ast performance information is one indicator of an offeror's ability to perform the contract successfully. The currency and relevance of the information, source of the information, context of the data, and general trends in contractor's performance shall be considered in making the award decision...”. The Government reserves the right to not consider any information submitted exceeding the five-contract limitation.

Contractor Name: RFP #:  
 Address: POC: (Person who can verify data)  
 Telephone:  
 Division: FAX:

### **CONTRACT INFORMATION**

Contract Number: Date Completed:  
 Contract Type: Fixed Price Cost Reimbursement Other (Specify)  
 Item Description:  
 Contract Quantity/Length of Service:  
 Customer Name: Customer POC: (Person who can verify data)  
 Address: Telephone:  
 FAX:

### **QUALITY**

NOTE: An explanation must accompany all answers with an asterisk(\*).

Was consideration or a monetary withhold for non-conforming supplies/services or late deliveries assessed against this contract?  
 YES\* \_\_\_\_ NO \_\_\_\_ (Explanation)

Was/is any part of this contract terminated for default and/or litigation?  
 YES\* \_\_\_\_ NO \_\_\_\_ (Explanation)

Was any warranty work completed on delivered items?  
 YES\* \_\_\_\_ NO \_\_\_\_ (Explanation)

Did you receive any quality awards in the past three years?  
 YES\* \_\_\_\_ NO \_\_\_\_ (List Awards)

### **TIMELINESS**

Were all items (including products, services, reports, etc.) delivered within the original contract schedule?  
 YES \_\_\_\_ NO \* \_\_\_\_ (Explanation)

### **COST FOR COST TYPE CONTRACTS:**

Was the original contract estimated cost met?  
 YES \_\_\_\_ NO\* \_\_\_\_ (Explanation)

If the estimated cost was not met, what was the positive/negative percentage of change?  
 +\_\_\_\_\_-

### **OTHER PERTINENT INFORMATION**

Describe any corrective action(s) initiated to solve any of the above-described problems/deficiencies on this contract. Discuss the success of the corrective action(s) taken.

## **SECTION "M" - EVALUATION FACTORS FOR AWARD**

### **PROVISIONS IN FULL TEXT**

#### **SINGLE AWARD FOR ALL ITEMS**

Due to the interrelationship of supplies and/or services to be provided hereunder, the Government reserves the right to make a single award to the offeror whose offer is considered in the best interest of the Government, price and other factors considered. Therefore, offerors proposing less than the entire effort specified herein may be determined to be unacceptable.

#### **GREATEST VALUE EVALUATION**

(a) The contract resulting from this solicitation will be awarded to that responsible offeror whose offer, conforming to the solicitation, is determined most advantageous to the Government, cost/price and other factors considered. The offeror's proposal shall be in the form prescribed by this solicitation and shall contain a response to each of the areas identified which affects the evaluation factors for award.

#### **EVALUATION FACTORS**

Factor I Past Performance

Factor II Cost

Factor I is significantly more important than Factor II.

(b) Although cost is not a weighted evaluation factor, it will not be ignored. The degree of importance of the cost will increase with the degree of equality of the proposals in relation to the other factors on which selection is to be based, or when the cost is so significantly high as to diminish the value of the technical superiority to the Government.

(c) In evaluating cost type offers, realism of the offeror's estimated cost will be considered. "Realism of Estimated Cost" is determined by reference to the costs which the offeror can reasonably be expected to incur in performance of the contract in accordance with his offer. Unrealistic personnel compensation rates will be considered in the cost realism analysis and may be considered in the technical analysis which could reduce the technical score.

(d) The Government may award a contract on the basis of initial offers received, without discussions. Therefore, each initial offer should contain the offeror's best terms from a cost or price and technical standpoint. However, if considered necessary by the contracting officer, discussions will be conducted with only those offerors determined to have a reasonable chance for award.

(e) The Government reserves the right to make an award to other than the lowest priced offeror or to the offeror with the highest technical score if the Contracting Officer determines that to do so would result in the greatest value to the Government.

#### **PAST PERFORMANCE**

**During the source selection process, the Government will assess the offeror's past performance in the evaluation for contract award. Accordingly, each offeror is required to submit a list of up to five of its most recent contracts within the past three years, either completed or on-going, for the same/similar services and the ability to satisfactorily perform the types of services for the kinds of systems, subsystems, equipments, components, programs and functions as described in the SOW.** It is preferred that these contracts be with U.S. government customers, but contracts with other commercial concerns are also acceptable. Offerors are authorized to provide information relative to any problems encountered on the identified contracts and any corrective actions taken by the offeror. The Source Selection Authority (SSA)/Contracting Officer will evaluate the offeror's past performance based upon the information furnished by the offeror and/or other information obtained by the Contracting Officer. The Contracting Officer is not responsible for locating or securing any information not furnished with the offer. The SSA/Contracting Officer may, however, utilize all available information, including information not provided by the offeror, in the past performance evaluation. The Government reserves the right to review less than all information submitted, and to only analyze sufficient information to make a reasonable determination of each offeror's past performance rating.

If insufficient information regarding the offeror's corporate history is available, the offeror is encouraged to submit for evaluation evidence of relevant past performance on the part of the offeror's key/principal employees, as either a prime- or sub-contractor.

Past performance is assessed by the SSA/Contracting Officer and is assigned a narrative rating in the evaluation. Each offeror will be given an adjectival rating on past performance: highly favorable, favorable, neither favorable nor unfavorable, unfavorable, highly unfavorable, or no same or similar history. Offerors who do not have same or similar past performance information reasonably available to the Contracting Officer will not be rated either favorable or unfavorable. The Government reserves the right to award to other than the lowest priced offer as set forth elsewhere in the solicitation. In addition, the Government may accept other than the lowest priced offer if doing so would result in greater value to the Government in terms of technical performance; timeliness of performance; cost/price, quality and reliability; and lower overall program risk. As a part of the past performance evaluation, the Government will assess the offeror's previous compliance with the requirements of FAR 52.219-8 and 52.219-9 as applicable.

**EVALUATION OF PREVIOUSLY APPROVED SINGLE PROCESS INITIATIVE (NAVSEA) (NOV 1996)**

Previously approved Single Process Initiative (SPI) processes will be evaluated under the source selection criteria of the RFP. If the successful offeror has previously approved SPI processes in the proposal, those SPI processes will be incorporated into the contract upon award.

NOTE: Award will be made to the offeror whose offer is most advantageous to the Government based on past performance and price.